CRIMINAL PRACTICE

1864–1937

Containing rulings of all High Courts and Judicial Commissioners from 1864 to 1937 under the Penal Code, Cr. P. C., Evidence Act and all other Criminal Acts with extracts from Medical Jurisprudence, etc.

BY

DAULAT RAM PREM, B.A., LL.B.,

Advocate, Lahore High Court,

Author of All India, Punjab, U. P., Bengal, Madras, C. P., Bombay, Bihar & Orissa Criminal Acts, Extradition Manual, Motor Vehicles Manual, Punjab Court of Wards Manual.

WITH A FOREWORD BY

HON'BLE MR. JUSTICE JAI LAL, R.B., B.A.,

Judge, High Court, Lahore.

"A competent knowledge of the laws of that society in which we live is the proper accomplishment of every gentleman and scholar."—*Blackstone.*

SECOND EDITION.

ARORA LAW HOUSE,

FEROZEPORE CITY (Punjab)

Price Rs. 16/-.

PREFACE TO THE SECOND EDITION

The first edition of this book was published in May 1933 and was exhausted within a couple of years. Owing to limited time at my disposal I could not bring out the second edition earlier, although there was a pressing demand for the same. I beg to take this opportunity of expressing my sincere gratitude to the members of the Bench and the Bar and the Police Officers all over British India and Native States for their warm appreciation of the first edition of the work.

When I published the first edition, it was my desire that should a second edition of the work be ever called for, I should present it in a much more comprehensive form.

The warm reception accorded to the first edition and hundreds of unsolicited testimonials received by me encouraged me to make the book as complete an Encyclopædia of Criminal Law as possible.

The chief difficulty of how to find the law in an *easy* manner was solved in the first edition. The arrangement of the book has been extolled by our generous readers, and the book has been described by some as "Veritable Teacher".

The Case Law has now been brought up to date.

The chief characteristic of the present edition is the addition of numerous headings pertaining to Medical Jurisprudence. Copious references from Medical Jurisprudence by Taylor, Modi, Ryan, Lyon, etc., under the headings of age, hanging, identification, suffocation, rape, unnatural offence, putrefaction, poison, strangulation, wound, etc., have been given. Extracts from Wills Circumstantial Evidence, Criminal Investigation by Dr. Hans Gross (The father of Criminology) and Law of Evidence by Best, Wigmore, Taylor, Phipson, Woodroffe, Monir, etc., have been given *in extenso* under appropriate headings and sub-headings.

The book has been thoroughly revised and recast.

If any one of my numerous readers will be kind enough to point out any omission or will make any definite suggestion for improvement, the criticism or the suggestion shall be thankfully received and carefully considered.

I must take this opportunity of most respectfully expressing my sense of immense gratitude to the Hon'ble Mr. Justice Jai Lal for his kindly writing foreword to the work and to Hon'ble Sir Douglas Young, Chief Justice, Lahore High Court, for his kind permission to dedicate this humble work to His Lordship.

My thanks are also due to Messrs. Harbans Lal Chopra, M.A., LL.B., Pleader, Lahore and M. L. Puri for having kindly assisted me in going through the proofs.

FEROZEPORE CITY, D. R. PREM

1st May 1937. *Advocate*

FOREWORD

BY

Hon'ble Mr. Justice JAI LAL, R. B., B.A.,
Judge, High Court, Lahore.

I have carefully gone through the advance copy of Mr. Daulat Ram Prem's Criminal Practice and I have found the references generally copious and correct. He has apparently taken great pains in preparing the book and it is bound to be of great use both to the Bench and the Bar. Arrangement of the subjects is convenient and the printing is good.

I wish Mr. Daulat Ram Prem success (which he well deserves) in this new venture.

LAHORE:
12th February 1933.

JAI LAL.

OPINIONS

ON

Criminal Practice

The Hon'ble Sir C C Ghose, Kt Acting Chief Justice of Bengal

I [illegible] occasion to use your book *Criminal Practice* within the last few days and I am able to say that in my opinion you have turned out a most conscientious piece of work. Your industry and ability in preparing a work of this description deserve the [illegible] recognition and I trust that your book will have a large and a ready sale. You have [illegible] under appropriate heads the various points which strike the busy practitioner engaged in Criminal work. Your notes are concise and to the point and I further observe that many points have been noted by you which are not to be found in the standard [illegible] of the Criminal Procedure Code.

I wish you all success.

The Hon'ble Sir S M Sulaiman Kt M A LL D,
Chief Justice Allahabad High Court

Your book *Criminal Practice* is an exhaustive treatise on the Criminal case law. The [illegible] and the sub-heads have been so carefully arranged that they *furnish* an easy reference to any point of law requiring consideration. The work must have involved a considerable amount of labour and time of yours and I am sure it will be found useful to the legal profession.

The Hon'ble Mr Justice Jai Lal, R B, B A Judge, High Court, Lahore

"The book is bound to be useful to the Bench and the Bar."

The Hon'ble Mr Justice S S Patkar, Judge High Court, Bombay

Criminal Practice is a digest of Criminal law and presents in a compendious form the law on all the important questions arising in Criminal cases. The alphabetical arrangement of the different topics is likely to facilitate ready reference. The book will *be found useful to the judges and the legal profession in dealing with Criminal cases.*

The Hon'ble Mr Justice Uma Shankar Bajpai Judge High Court Allahabad

I have gone through portions of Prem's Criminal Practice and I found the book quite useful. The author has departed from the orthodox method of grouping cases section-wise and has followed better method of grouping cases subject-wise. The digest is fairly exhaustive and accurate and in my opinion Mr Daulat Ram Prem has supplied a long felt want for an exclusive Criminal digest which is handy and yet so serviceable. I am *sure the book will be found useful both by the Bar and the Bench.*

R S Topan Ram, P C S (Retd) Chief Judge, Jodhpur

It contains [illegible] references on all the necessary topics of the Criminal Law and Procedure. He seems to have taken great and careful pains in preparing the book. It is very useful and handy and should be in the hands of the presiding officers of Criminal Courts, members of the Bar and the Police.

B R Puri Esq, M L A Advocate, High Court, Lahore

Allow me to congratulate you on the excellent publication which you have brought out. It is an exhaustive work which shows a great deal of labour. For a criminal lawyer the book appears to me to be almost indispensable. The printing and the get up of the book is all that is desired.

I wish the publication every success which I have no doubt it amply deserves.

Sir Tej Bahadur Sapru, K C S I, Advocate, Allahabad

I have been much impressed with the pains you have taken over collecting and arranging the material. In my opinion it should prove to be very useful to a busy practitioner who wants to find out easily the relevant authorities on any particular subject.

Judicial Member, Council of Administration, Faridkot State

Your Criminal Practice is a very useful publication and has proved a great [illegible] to me.

Review by Criminal Law Journal and Indian Cases

Mr D R Prem's *Criminal Practice* is an exhaustive Compendium of [illegible]nal Law and procedure of India on all important questions arising in criminal c[illegible]

a thousand closely printed pages with exhaustive references speak eloquently to the indefatigable industry and perseverance of the compiler. And there is the testimony of the Hon'ble Mr Justice Jai Lal of the Lahore High Court as to the generally copious and correct nature of the references. The arrangement of headings and sub headings is satisfactory. The author has arranged the headings and the sub-headings according to the subject dealt with thus affording increased facility to the busy lawyer. The sectional index is given at the end

Review by All India Reporter

The book has been written after great pains. The references are copious and the book would be of much use both to the Bench and the Bar. The headings and sub headings would facilitate the work of lawyers to trace any decision on the particular subject in a very short time. The sectional index at the end would be of much use to find out the heading under which the case is digested from the subject. The book would be welcomed by the legal profession

The Hon'ble Sir B B Ghose, Kt, Law Member, Government of India

Your treatment of the book has been entirely different from those of other similar books. It shows your industry and thoughtfulness to make the book useful to the profession. Your references are full and they seem to have been carefully analysed and classified. I am sure the book will receive recognition which is undoubtedly due to it

Review by Indian Criminal Reports

The headings and sub headings are well chosen and suggestive and cross references are exhaustive. References to the relevant sections of the Statute given in the bracket are very useful. The *ratio decidendi* is stated briefly and to the point. The printing and get up are good. A nice helpful and magnificent work for the good of the profession

Dayaram K Ajwani, B A, LL B, Khairpur

Criminal Practice' has been of great help to me and I am now of opinion that the book is indispensable to a criminal pleader

Dewan Harish Chandra Gupta, B A, LL B, Pleader, Rawalpindi

I am using 'Mr Daulat Ram Prem's Criminal Practice' as a book of reference for over a year. I have always found it to be a never failing and time saving guide. The learned author has arranged the rulings in a simple and lucid style, under most appropriate headings. The book is bound to be very useful both to the Bench and the Bar. The author is to be congratulated on his successful efforts. The paper, print, binding and the general get up of the book are also very superior. Every criminal lawyer should have this book under his pillow

'Justice', Lahore

There is no exaggeration if we say that by compiling the book under review, the author has presented the legal profession with an encyclopaedia of Criminal Law. It is the first book of its kind and is a standard work on the subject. It is a departure from the old system of grouping case law under sections of the Acts. It can be used as a legal dictionary on account of its excellent alphabetical arrangement. The author has turned out a conscientious piece of work. He has collected under appropriate heads and sub heads the various points which facilitate the work of a busy lawyer to trace case law on the particular subject in a very short time. The sectional index at the end is of much use. The work is a clear proof of author's industry and his honest desire to make the volume useful to the members of the Bench and the Bar. It is a comprehensive digest of Criminal Law and presents in a compendious form the law on almost all the important questions that arise in a criminal trial. The book seems to be indispensable for criminal lawyers

The Malayan Law Journal, Singapore

There is no doubt that the Criminal Practice and Extradition Manual occupy an important place among the standard publications on Criminal Law. In our opinion these works will find a ready sale

M Noor ul Hoda, Advocate, Arrah

I have used Prem's Criminal Practice for some time now and I consider that it is quite useful and a distinct improvement on the Criminal digests we have in the market

Criminal Practice (1864–1937)

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CRIMINAL PRACTICE

(1864—1936.)

(1928 A 263, 1927 L 106, etc., refer to A. I. R.).

A

ABANDONMENT OF CASE.—*See* Legal Practitioners' Act, S 13

ABANDONMENT OF CHILD.—S 317, Penal Code

—1. Essentials and Evidence

1 Concealing an illegitimate child in a bush is abandonment 24 I C 837

2. Abandoning an illegitimate new born child 200 yards from the village, which died, amounts to abandonment. 23 P. R 1866, 24 M. 662, 1 Weir 332

3 Abstaining from giving nourishment to child and keeping custody is not abandonment 18 P. R. 1870

4 Mere neglect or temporary abandonment is not sufficient. 55 I C. 205

5. Actual harm to the child is immaterial 24 M. 662

6. Exposure or leaving must be in any place If the child is left with another wholly unable to take care of it, S 317 does not apply. 18 A. 364, 24 M. 662 Dist.

7. Mother of an illegitimate child gave the new born child to her sister, who left it in the compartment of train. Both were guilty. 41 B 152

8. Where a mother of two children left her husband's house owing to ill treatment, she is not guilty under S 317. 4 P. R. 1879 Cr, 5 P. R. 1878 Cr.

9. Person having the care of the child for the time being and abandoning it is guilty. 37 I. C. 306

—2. Intention.

1. Intention is the gist of the offence. 33 P. R 1872, 5 P. R. 1878, 18 A. 364.

2 Exposing or leaving the child in any place must be with the intention of wholly abandoning it. 55 I. C. 205.

3. The only intention to complete the offence is of wholly abandoning the child. 1 Weir 332

—3. Procedure

If the abandoned child dies, conviction must be for murder. 2 A. 349

—4. Sentence.

A young girl of 18 put her illegitimate child naked in a hole in a brick kiln and which was found covered with ants Held, S 562, Cr. P. C, should not be applied and High Court sentenced her to 2 years' rigorous imprisonment. 1935 Pesh. 48 = 1935 Cr. C. 349.

ABATEMENT :—*See* Death of Complainant, Absence of Complainant.

—1. of Appeal—S. 431, Cr. P. C.

1. An appeal abates on the death of appellant except one against fine 16 P. R. 1878 Cr., 6 P. R. 1893 Cr, 2 B. 564, 19 B. 714. *See* 24 P. R. 1908; 8 P. R. 1919.

2 But High Court can examine the record of the case with a view to revision and rectification 2 B. 564

3. After the death of appellant, the question of refund of fine to the legal representative was referred by the High Court to the Local Government for redress. 19 B. 714

Abatement.—(concld.)

—2. of Prosecution.

1. On the death of complainant criminal proceedings under S. 323, I. P. C., do not abate. 1924 A. 666 (2)=81 I. C. 719, 44 M. 417, 2 L. 27=1922 L. 227, 4 L. 7. 26 P. R. 1917 and 25 P. R. 1919 overruled.
2. But a defamation case under S 500, I. P. C. abates. 10 P. R. 1908 Cr.=7 Cr. L. J. 290=112 P. L. R. 1908.
3. In summons cases proceedings abate on the death of complainant. 51 M. 339. *See* 93 I. C. 891. 1932 Nag. 72=137 I. C. 91=33 Cr. L. J. 407=28 N. L. R. 49.
4. A son cannot be made party in place of deceased father. 21 C. 404.
5. In non-cognizable cases Magistrate can allow the complaint to continue by a proper complainant, if the original complainant dies. 93 I. C. 891=1926 B. 178, 28 Bom L. R. 288=27 Cr. L. J. 491.
6. If a servant filed a complaint on behalf of his master another complainant can be substituted, if he dies. 1926 B. 178=93 I. C. 891=27 Cr. L. J. 491, 18 C. W. N. 1211.
7. Criminal proceedings under S. 498, I. P. C, do not abate on the death of the husband. S. 89 of the Probate and Administration Act does not apply to criminal prosecution. 4 L. 7=1924 L. 72=71 I. C. 77, 44 M. 417.
8. A personal action dies with the person. *Wharton's Law Lexicon, P. 27.*

—3. of Revision —

1. Revision against an order under S. 250, Cr. P. C, does not abate on petitioner's death. 24 P. R. 1908 Cr. *See* 6 P. R. 1893 Cr.
2. Revision against a sentence of fine does not abate. 8 P. R. 1919 Cr., 1936 A. 313.
3. Revision against an order under S. 145, Cr. P. C, abates on the death of the petitioner. 23 P. R. 1919 Cr.

ABDUCTION .—Ss 362 364-365-366 369, I. P. C.

—1. Abetment of.

1. A woman cannot abet her own abduction. 40 P. R. 1866 Cr., 11 P. R. 1883 Cr., 6 P. R. 1871 Cr., 14 P. R. 1875 Cr., 5 P. R. 1871 Cr.
2. A person whose tonga is used for abducting a girl is only accessory after the fact and is not guilty unless a previous conspiracy is proved. 1930 L. 163=31 Cr. L. J. 131.
3. A young girl of 13 helping her brother should not be convicted of abetment. 13 P. R. 1916 Cr
4. If persons who were present at the time of abduction did not do any overt act in furtherance of the act of kidnapping, they are not guilty. 1932 Oudh 771.
5. If a husband sells wife for immoral purpose to accused proof of charge of abduction of offence under S. 366 against accused is permissible if there was bargain before, in pursuance of which the girl was abducted. 28 Cr. L. J. 108=97 I. C. 236.

—2. Attempt at.

Accused came on the roof of a house and awakening a woman sleeping, asked her to accompany them. On her refusal they lifted her. She raised an alarm and accused dropping her ran away. Held it amounted to attempt to abduct. 1925 L 512=86 I. C. 1007=26 Cr. L J. 943=26 P. L. R. 119.

—3. Burden of Proof.

1. It is a justifiable presumption that when a woman is abducted or kidnapped, it is with one or other of the intents specified in S 366 It is for the accused to explain away incriminating circumstances 1930 L. 163=120 I. C. 606=31 Cr. L. J. 131, 123 I. C. 528. *Contra* 99 I. C. 121=1926 L. 184.
2. For a conviction under S. 366 it is not necessary to prove that woman was compelled to move from place to place, 1926 C. 320=27 Cr L. J. 263.

Abduction.—(contd.)

3. Onus of proving age is on prosecution. 1931 L. 401=32 Cr. L. J. 1041.

4. If the accused pleads marriage, prosecution must prove that the woman was abducted with the intention of forcing or seducing her to illicit intercourse. 1934 Sind 119=151 I. C. 984.

—4. By Mother or Father or Guardian. *See* Kidnapping—14.

A mother cannot have the custody of her minor children adversely to that of the father. If mother and accused take away minor from father in order to marry her against his wish, the accused is guilty. 1934 Oudh 89=35 Cr. L. J. 469=147 I. C. 670, 1925 C. 578=26 Cr. L. J. 290 and 8 C. 969 Rel. on, (1905) 1 Weir 348 Dist.

—5. Charge.

1. In case of a charge of abduction, notice of the charge of kidnapping is not a fair charge. When accused is charged with kidnapping only, the Judge should not leave the Jury to convict the accused of abduction. 1927 C. 200, 117 I. C. 862=30 Cr L. J. 857.

2. An appellate Court cannot alter a charge under S 376, I. P. C., into one under S. 366, I. P. C. 8 Bom. L. R. 120=3 Cr. L. J. 240.

3. Where the accused was charged with "kidnapping or abduction" the charge was defective 1927 C. 644=104 I. C. 245=28 Cr. L. J. 805.

4. Accused charged under S. 366 can be convicted of rape. 1932 A. 580=141 I. C. 127=34 Cr L J. 100.

5. Accused should be charged separately for kidnapping and abduction. But the omission in splitting up the whole thing into two parts will not vitiate trial in the absence of prejudice to accused 1934 C. 85=35 Cr. L. J. 487=147 I. C. 882, 57 C. 1074=1930 C. 909 and 1927 C. 644=28 Cr. L. J. 805 Rel. on. 1933 C. 194 Ref. 1933 C. 563, 1927 C. 200, 1934 Pat. 170.

—6 Concealing an abducted woman —S 368, I P. C. *See* concealing an abducted woman.

—7. Consent of abducted woman.

1. If a grown up girl of 19 submits herself to be carried away and raped and does not complain even when left alone there is a presumption of consent. 1931 L. 401=133 I. C. 560=32 Cr. L. J. 1041.

2. Where a married woman of 25 years was dissatisfied with her husband and there were circumstances to show that it was a case of elopement, conviction under S. 366 is not justified. 2 L. L. J. 536.

3. Consent obtained by misrepresentation is no consent. 17 P. R. 1916 Cr.

4. Where it was not likely that the girl herself eloped with some of the accused and on missing her the parents got up the story against her paramours, conviction under S 366 is improper. 1925 L. 274=6 L. L. J. 622.

5. S. 366 does not cover a case of elopement or removal of the girl with her consent. 42 B. 391, 2 L. L. J. 536, 1925 L. 274.

6. Where a widow was removed by force and soon gave up resistance and accompanied the accused—her paramour willingly, the accused was not guilty. 72 I. C. 533=24 Cr. L. J. 421=1924 L. 218.

7. A conviction under S. 366 is not bad for the reason that accused had intercourse with the woman before abduction. 1930 M. 980=129 I. C. 463.

8. Where the abducted woman has voluntarily lived with the accused for a couple of months before abduction as his wife and whom the accused intended to marry, he was not guilty. 1924 L. 218=72 I. C. 533=24 Cr. L. J. 421.

9. Consent of a girl under 16 years is immaterial for a conviction under S. 366. 49 C. 905, 1930 C. 437=129 I. C. 834=51 C. L. J. 352.

10. On a charge under Ss 376-366, the age of the girl is very material. If a girl of less than 14 years was love smitten and wrote love letters, her consent is immaterial 1930 C. 437=51 C. L. J. 352=129 I. C. 834.

Abduction:—(*contd.*)

11. The "will" referred to in the first part of S. 366 means the will of the girl and not the will of her guardian. 1932 C. 442=33 Cr. L. J. 512.

12. If the grown up girl was carrying on intrigue up to the time of abduction, the accused taking her away to continue intrigue is not guilty. 1934 L. 227=151 I. C. 741, 1932 A 409 Ref.

13. Where accused kidnapped a girl below 12 years to give her in marriage. Held that S 90 I. P. C. does no apply to S. 366. I. P. C. 1933 Rang. 98=11 R. 213=34 Cr. L J. 696

—8. Continuing offence.

1. Abduction is a continuing offence. 50 C. 1004=1924 C. 389=25 Cr. L. J. 1082=81 I. C 906, 22 I. C 730.
2. Each fresh removal is an offence. 1925 Oudh 328=86 I. C. 71, 12 A. L. J. 91.
3. Where a woman is passed from man to man in the course of abduction, all such men are equally liable. 54 P. L. R. 1916

—9. Deceitful means

There must be clear evidence of deceitful conduct before a conviction under S. 366 can lie. 1930 L. 1024=32 P. L R. 104=129 I. C. 197=32 Cr. L. J. 258=1930 Cr. C. 1185.

—10. Elopement —*See*—7.

1. S. 366 does not cover a case of elopement or removal of girl with consent. 42 B. 391=2 L. L. J. 536.
2. Where it is not unlikely that the girl herself eloped with some of the accused ar her parents got up the story against her paramour, conviction under S. 366 improper. 1925 L. 274=6 L. L. J. 622.
3. Abducted woman was previously carrying on intrigue with the accused who elope with her. Held that the necessary intention is not proved. A. L. R. 1933 L. 77

—11. Essentials and Evidence.

1. Mere abduction without criminal intent is no offence. 99 I. C. 121, 1934 L. 22
2. Abduction of married woman falls under S. 366. 45 C. 641, 1934 Pesh. 69.
3. Mere carrying the woman by force is insufficient. It should be with intent to marı against her will or force her to illicit intercourse. 193 P L. R. 1911.
4. Although a girl has lost her chastity, she can be seduced under S. 366. 99 I. (98=1927 Sind 104=28 Cr. L. J. 66
5. Seduction resulting in abduction need not be proved to be separate from that resu: ing in illicit intercourse 1927 L. 370=101 I. C. 189=28 Cr. L. J. 413.
6. It is not necessary to prove under S 366 that the woman was compelled to leave n only her house but was compelled to go from place to place. 1926 C. 320=' I. C. 439.
7. The fact that the girl at the time of seduction intended to have intercourse is : defence under S 366. 49 C. 905
8. Where the abducted girl is not forthcoming and the principal witness is a boy of who is brother of the husband of the girl and the eye-witnesses did not rescue h or inform her relatives immediately, the abduction was not proved. 100 I. 357=27 P. L. R. 747.
9. Where accused took a girl under 18 from place to place with the intention seducing her to illicit intercourse and no force or fraud was used, he was guil under S 366-A. 88 I. C 463=1925 Oudh 454=26 Cr. L J. 1151.
10. There must be reliable or convincing evidence of deceitful conduct of the accuse 1930 L. 1024=129 I. C 197=32 P L. R 104=32 Cr. L J 258
11. The nearest paternal relations of the girl over 16, forcibly took her from her mothe who objected to her marriage with one of the accused, as she was not paid cor pensation for her upkeep Held, that the accused were technically guilty. L. L. J. 377=25 Cr. L. J. 430=1924 L. 110=77 I. C. 606.

Abduction—(*contd*)

12 Where a widow was removed by force but soon gave up resistance and accompanied the accused—her paramour—willingly Held that accused was not guilty 72 I C 533=23 Cr L J 421=1924 L 218

13 Marry in S 366 means going through a form of marriage whether in fact it proves legal and valid or not 45 C 641=24 C W N 695

14 A girl was led by false representation by accused to his house that he was a constable and would take her to a Police Station Held it amounted to abduction 1923 L 158=73 I C 510=24 Cr L J 622

15 Where a Hindu mother in law forced her minor daughter in law to marry a person against her will she was guilty 30 P L R 573=1929 L 713=1929 Cr C 305

16 A Muhammadan girl of 10 years was married to accused against her will and without the consent of the guardian for marriage the person marrying her is guilty 26 Cr L J 290=1925 C 578=84 I C 434

17 Where accused by promise of marriage induced a woman to leave her house but does not marry her he is guilty 4 A L J 482=6 Cr L J 9

18 The most important witness in abduction case is the abducted woman herself and where she is not forthcoming and the other witnesses are not of a reliable type the prosecution evidence must be carefully scrutinized 28 Cr L J 277

19 Where two girls under 16 years of age ran away from their house and a woman sheltered them with a view to prostitute themselves she was guilty under S 366 34 A 340—9 A L J 307

20 Abduction of woman with intent to compel her to marry another is an offence under S 366 45 C 641 2 O W N 17

21 A woman was caught hold of by accused who dragged her a short distance and was rescued by people Held that in the absence of evidence of intention the accused was not guilty under S 366 but under S 354 only 109 I C 127=29 P L R 444

22 The inducement to leave must have for its object seduction by another person and not by the person who himself induces the person to leave 1930 A 497=125 I C 577

23 A brother and sister under 14 years of age abducted a minor girl whom the brother raped The brother is guilty under S 366 but the sister is innocent as she was only employed as a decoy duck and could not possess the intent specified 13 P R 1916 Cr

24 Seduction applies to first act of illicit intercourse The act of seduction must be subsequent to kidnapping 1932 A 409=33 Cr L J 669=54 All 756

25 Where a person was found at the door of a house and did no overt act while the accused caught hold of woman s hand and kidnapped her he is not guilty 1933 Oudh 62—34 Cr L J 377

26 A girl abducted from Moradabad was found at Delhi A constable on suspicion took her and her companion to Thana and made a report Sub Inspector of Delhi recorded her statement The statement is inadmissible in evidence as the Delhi Sub Inspector had jurisdiction by virtue of Ss 156 (1) and 161 (4) Cr P C It fell under S 162 Cr P C 1933 A 665

27 Seduction means persuading to have sexual intercourse Mere fact of girl s previous unlawful intercourse is immaterial as she may have resumed purity at the time 1933 C 718 1929 A 270=30 Cr L J 529 9 Pat 647=1929 Pat 651 57 C 1074=1930 C 609 Relied on 54 A 756 and 2 Cr L J 476 not foll

28 Abduction or seduction is not limited to loss of chastity for the first time 1930 M 980=125 I C 463

29 If a girl of 14 years was taken away by deceitful means and kept in a house as a prisoner, accused is guilty under Ss 366 376 although she was a passive resister when she was raped for the first time A L R 1932 L 440=1932 P C L 440 Cr

30 Where it was doubtful whether a married woman of 25 was forcibly carried away or went of her own accord conviction is bad 2 I L J 536

Abduction.—(contd.)

31. A mother-in-law deceitfully inducing the widowed daughter-in-law to go out of the house to compel her to marry against her will is guilty. 1929 L. 713.

32 Accused taking away a fatherless Muhammadan girl of 11 years with her mother's consent and marrying against the wishes of her brother who was guardian for marriage is guilty under S. 366. 1925 C. 578=26 Cr. L. J. 290=84 I. C. 434.

33 A Muhammadan girl after the age of 15 years ceases to be under the guardianship of her mother. 21 P. R. 1906.

34. It is not necessary that 'Marriage' may prove legal or valid. 45 C. 641.

35 As presumption of knowledge or intention cannot be imputed to a girl of 13 or 14, she is not guilty under S. 366 if she helped to deceive the abducted girl. 13 P. R. 1916 Cr.=17 Cr. L. J. 283.

36. The forcible or fraudulent taking away a woman is abduction. Wharton's Law Lexicon (1902) Ed P. 11.

—12. Force or fraud in—*Sec*—11.

1. Where no force or fraud is practised on the person abducted, a conviction under S 366 cannot stand. (1865) 2 Weir 7 (Cr.)

2 Where a procuress induced a married woman to become a prostitute and she made a deliberate choice and went to Calcutta with her, she was not guilty under S. 366 but under S. 498 (1864) 1 Weir 45 (Cr.)

3. Where accused attacked a person and dragged and carried his wife in broad day-light, he was guilty under S. 323 only. 27 P. L. R. 867.

4. There must be clear evidence of deceit 1930 L. 1024.

—13 Illicit intercourse.

1. Illicit intercourse means merely sexual intercourse between a man and woman who are not husband and wife 1907 A. W. N. 199=6 Cr. L. J. 9. 1932 L. 555=138 I. C 597=33 P L. R. 727=33 Cr. L. J. 673=1932 Cr. C. 719.

2. Where a man and woman had been cohabiting for a long time law presumes lawful marriage. 1934 Sind 119=151 I. C. 984.

—14. Intention for—

1. Abduction in itself without criminal intent is no offence. 99 I. C. 121. 1934 L. 227=151 I. C 741. 1924 L. 218, 13 P. R. 1904 Cr. Ref. 1934 Pesh. 69, 12 P. W. R. 1911 Cr, 6 C. W. N. 208.

2 Intent specified in S. 366 may be inferred from circumstances and subsequent conduct of the accused. 1921 L. 323=67 I. C. 731, 110 I. C. 99.

3 A girl of 14 years was forcibly abducted by accused. Held that no inference except of the intention as is mentioned in S. 366 is possible. 1930 L. 52=31 Cr. L. J. 529.

4 The intention of the girl to have intercourse at the time of seduction is no defence under S. 366. 49 C. 905=1922 C. 508

5. Accused party opposed every match for the girl and after abducting one of them married her. Held that the intent to marry against her will is proved. 1922 L. 410=77 I C 997=4 L. L. J. 322.

6. Where the abducted woman lived with accused for 2 months before abduction as his wife, the intent under S. 366 is absent. 1924 L. 218=24 Cr. L. J. 421.

7. If the intention of accused is to give the girl under 16 years in marriage, the conviction under S. 366 is right. 93 I. C. 248.

8. Actual marriage or intercourse is not necessary to complete the crime, but there should be evidence to show the intent or raise the presumption that illicit intercourse was likely to result from abduction 23 P. R. 1868, 193 P. L. R. 1911.

9. A recruiter enticing a girl to an Emigration officer for recruitment is not guilty under S 366 if she is forced or seduced to illicit intercourse there. 15 Cr. L.J. 154.

10. Where the accused is not shown to have knowledge or intention that the girl might be or was likely to be forced to illicit intercourse, the offence under S. 366 is not committed. 1927 L. 727=102 I. C. 552=28 P. L. R. 260=28 Cr. L. J. 584.

Abduction.—(*contd.*)

11. It is practically impossible for the prosecution to establish affirmatively the intention with which a woman is abducted or kidnapped The presumption is that when any woman is abducted or kidnapped it is with one or other of the intents specified in S 366 and it is for the accused to explain away the incriminating circumstances. 1930 L. 163=120 I C 606=31 Cr. L J. 131, *contra* 1926 L 184

12 A person trying to sell a girl must be presumed to have intention or knowledge that she would be subjected to illicit intercourse 1930 L 463=1930 Cr C 531

13. Deceitful marriage of girl with the intention of prostituting her amounts to abduction 7 P. R. 1881 Cr

14. The question of intent is a question of fact only 14 A 25

15 The intent under S 366 cannot be presumed in the case of a young girl of 13 years. 13 P. R. 1916 Cr.

16 It is contrary to the well known rule of construction of Penal Statute to say that an intention to illicit intercourse can be presumed when the girl has already consented to intercourse 11 B L. R 326

17. If the object of the accused is to bring pressure on the husband of woman to withdraw certain complaint, the intention specified in S 366 is not proved and therefore S 366 is not applicable 1935 A. 665=36 Cr L J. 826=155 I. C 662.

18. Where intention or knowledge of likelihood of compulsion to marry or sexual intercourse is not proved, accused cannot be convicted although his conduct is reprehensible 1933 Oudh 45=34 Cr L J. 220

19 Intention to give child in marriage in contravention of Act 19 of 1929 is unlawful purpose, and the accused is guilty under S 366 1933 Rang. 98=34 Cr L J. 696 =11 Rang. 213

20 Mere carrying a woman by force is not offence under S 366. 12 P. W. R. 1911 Cr.

21. Inference of intention may be made from circumstances 31 Cr. L. J. 529=1930 L. 52, 29 Cr L. J 643, 1921 L. 323=67 I. C. 731.

22 Where accused opposed every match for the girl and abducted her and went through Nikkah form, intention under S 366 is proved. 1922 L. 410=25 Cr. L. J. 633

—15. Joint trial—under Ss. 366 368, I. P. C.

1. The offence of abduction may be tried in a court within whose jurisdiction the person abducted was abducted, conveyed or concealed. 1883 A. W N. 164.

2 Joint trial of accused charged with abduction alone and accused charged with both abduction and kidnapping is irregular. 1933 C. 563=34 Cr. L. J. 682

—16. Jurisdiction.

A and B abducted a girl and took her to the house of C. A joint trial of A and B under S 366 and of C. under S 368 was valid 29 Cr. L. J 496=1928 L. 751.

—17. Of a child to take property from the person.—S 369, I P. C.

1. The offence of kidnapping a child with the intention of stealing ornaments from the person of the child falls under S 369. The consent of the child is immaterial (1867) 8 W. R. 35 (Cr.)

2 This being a serious offence the Magistrate should always commit the accused to the Court of Sessions (1866) 6 W. R. 2 (Cr.)

3. Accused convicted under S. 369, cannot also be punished for theft. 7 M. H. C. R. 375.

4. Conviction under S. 302 can be altered to one under S. 369 109. 1933 Pesh. 9=34 Cr L. J. 266.

—18. Of minor—*See* Kidnapping.

—19. Procedure

1. Accused cannot be convicted both under S 363 and S 366. (1867) 7 W. R. 56 Cr.

2 An appellate court cannot alter a charge under S. 376 into one under S. 366. 8. Bom. L. R. 120.

Abduction.—(*contd.*)

3. Five or more persons using force for the commission of an offence under S. 366 cannot be convicted of both under S. 365 and S. 147. 1922 L. 410=4 L. L. J. 322.

4. Where the woman was forcibly removed with the intent specified in S. 366 and robbed of her jewel, the accused are guilty under Ss. 366 and 392. 13 P. R. 1916 Cr.

5. Seduction is a comprehensive term and includes the use of deceitful means. The Judge need not suggest to the Jury that if they find that the girl was not taken away by force they should next consider wether deceitful means were practised. 1930 C 433=126 I C. 762=31 Cr. L. J. 1092=1930 Cr. C. 741.

6 Where accused carried away a woman forcibly and had subsequently raped her, he was guilty under Ss. 366 and 376. 7 L 484=1927 L. 88=99 I. C. 344=28 Cr. L. J. 136. *Contra* 1926 L. 212=27 Cr. L. J. 338, 89.

7. Where the accused is charged with kidnapping only, the Judge should not leave the Jury to convict the accused of abduction. 1927 C. 200=99 I. C. 937=28 Cr. L. J. 201.

8 If a Magistrate finds that a girl is over 16 years and was enticed away, he should find out if some other offence is committed and should not throw out the case because the girl is not minor. 1924 L. 718=26 Cr. L. J. 318=85 I. C. 36.

9 The accused were charged with kidnapping, but the Jury were led to believe that it was open to them to return a verdict of guilty of abduction. Held that retrial should be ordered. 117 I C. 862=30 Cr. L. J. 857=32 C. W. N. 1245.

10. Magistrates should not give themselves jurisdiction by trying cases under S. 363 which really fall under S. 366. (1901) 1 U. B R. 328.

11. Separate sentences under Ss. 376-366 are legal. 29 Cr. L. J. 485=109 I. C. 213, 107 I. C. 388, 7 L. 484=1927 L. 88. *Contra* 1926 L. 212.

12. Conviction under S. 302 can be altered to one under Ss. 366-109, I. P. C. 1933 Pesh. 9=34 Cr. L. J. 266, 35 I. C. 816.

13. Several persons causing hurt in an offence under S. 366, should not be convicted separately under S 147 and S. 366 1922 L. 410=25 Cr. L. J. 533.

14. Where facts disclose offence under S. 366, Magistrate should not convict under S. 363, but should act under S. 346 or S 347 Cr. P. C. 30 P. R. 1886 Cr.

—20. **Procuration of minor girl.**—*See* Procuration of minor girl. S. 366-A., I. P. C.

—21. **Restoration of abducted female.**—*See* Restoration of abducted female.

—22. **Seduced to illicit intercourse.**

1. The term 'seduce' in S 366 is used in the general sense of enticing or tempting and not in the limited sense of committing the first act of illicit intercourse A person can be guilty even though the girl kidnapped had intercourse with him before kidnapping 1935 B 189=37 B L R. 176 1930 C. 209=31 Cr. L. J. 903=57 C. 1074, 9 Pat 647=1929 Pat. 651, 1930 M 980=129 I. C 463, 10 Bur L. R. 196, (1910) 1 K B 818 Rel on. *Contra* 1932 A. 409=54 A. 756=33 Cr. L. J. 669 and 1934 L. 227=35 Cr. L J. 1386=151 I. C. 741

2 There should neither be proof of seduction resulting in abduction to be separate from that resulting in illicit intercourse nor independent evidence of seduction for illicit intercourse. 1927 L. 370.

3. Seduction can be even of a girl who has lost her chastity. 1927 Sind 104=28. Cr. L J. 66, 1929 Pat. 651, 1929 A 82, 1927 Sind 97, 1932 A. 469.

4. If the kidnapped girl was already leading life of indulgence, there is no offence. A. L R 1934 C 322

5. Seduction does not apply to a person who had been living with a woman and having illicit intercourse for several months. 1934 Pat. 170=35 Cr L. J 814

6. Accused cannot be convicted unless it is proved that the girl was leading a life pure from unlawful sexual intercourse at the time when the kidnapping took place, 38.C. W. N. 71.

Abduction—(*contd*)

—23 Sentence

1 Accused abducted a certain woman to put pressure upon her relation to restore a girl abducted by them Held that a heavy sentence is not necessary 89 P L R 1916

2 Although the offence under S 366 and S 376 may appear to overlap each other they are essentially distinct Therefore separate sentences under Ss 366 376 are not against the provisions of S 71 I P C 7 L 484=1927 L 88=107 I C 388 =109 I C 213=29 Cr L J 485 *Contra* 1926 L 212=92 I C 850

3 The accused was a second cousin of the girl and the motive for abduction was to bring about marriage and no evil desire to spoil the girls future or disgrace her Held that sentence should be reduced to 2½ years 1927 R 336=28 Cr L J 424

4 Where the real offence is rape and the abduction is an aggravating circumstance separate sentences under both sections should not be given 1926 L 114=89 I C 912=26 Cr L J 1440

5 Where girl abducted was not imposed upon a sentence of 7 years was too severe 81 I C 529=1924 Oudh 335=25 Cr L J 913=27 Oudh C 32

6 A nominal sentence is sufficient if the abducted girl was married to a relation and the mother who was the guardian did not take a very serious view of the matter 1924 L 110=77 I C 606=25 Cr L J 430 4 L L J 337

7 If force used is necessary ingredient for the completion of an offence under S 366 a separate sentence under S 147 is not justified 77 I C 997=1922 L 410

8 Where a minor girl was attached to the accused and he abducted her in order to marry her a severe sentence is not called for 1926 L 677=96 I C 874=27 Cr L J 1018 1927 Rang 336=28 Cr L J 424, 1927 L 88

9 Where charge of rape was not made out during Police investigation but was made at the trial only a sentence of 5 years was reduced to 3 years 47 P W R 1915 Cr =17 Cr L J 284

10 Girls consent in a case under S 366 has bearing on the sentence when she is not altogether a child 1926 L 677=27 Cr L J 1018 27 Cr L J 851=1926 L 547

—24 With intent to murder the abducted person—S 364 I P C

1 S 364 applies if the object is that the person kidnapped may be murdered or may be so disposed of as to be put in danger of being murdered 27 Cr L J 64

2 S 364 is not applicable where the object of kidnapping is to hold the kidnapped person to ransom 27 Cr L J 64

3 If a person of age is conveyed from place to place there is no kidnapping 137 I C 298

4 Where a person was abducted in broad daylight and murdered a sentence of transportation for life is not severe 1933 Oudh 148=34 Cr L J 498

5 Deceased was assaulted and dragged to a place There was no evidence whether he was alive or dead when so dragged Held they were not guilty under S 364 1936 Oudh 44=37 Cr L J 12

—25 With intent to wrongfully confine the abducted person—S 365 I P C

1 The intention must be to confine a person secretly and wrongfully 26 P L R 734=7 L L J 520

2 Kidnapping and confining in broad daylight without any secrecy amounts to an offence under S 342 and not under S 364 I P C 29 Cr L J 597

3 Where a person was abducted in order that he might be held to ransom by his abductors the accused were guilty under S 364 6 Bom L R 160 27 Cr L J 64

4 The accused abducted a girl to put pressure on her friends to restore another girl whom they have abducted She was restored a few days afterwards Held that under such circumstances heavy sentence was not necessary 89 P L R 1916

5 M formed intimacy with a widow H who took up her abode with M H's relations attacked the house of M and after beating him carried off H They were convicted

Abduction.—(*concld.*)

under S 452. Held, that conviction under S. 452 was no bar to their trial under S. 365, I. P. C. 26 A. W. N. 32.

6. Taking away a girl, at the instance of husband, from her father's house and concealing her in another house is an offence under S. 365. 1936 A. 360=163 I. C. 301.

7. Husband cannot use force to compel wife to leave her parent's house and join him. 1936 A. 360=163 I. C. 301.

ABETMENT.—Ss. 107 to 116, Penal Code.

—**1. Abetment**—(Scope of).

1. Abetment is a separate and distinct offence, provided the thing abetted is an offence. 33 M. L. T. 263.

2 Abetment does not in itself involve the actual commission of the crime abetted. It is a crime apart. 52 C. 197=29 C. W. N. 181=1925 P. C. 1. 27 Bom. L. R. 148.

3. As a general rule a charge of abetment fails if the substantive offence is not established against the principal. 52 C. 112=1924 C. 1031=26 Cr. L. J. 11=28 C. W. N 1046, 61 I. C. 800, 1930 Oudh 505, 71 P. R. 1866.

4 Assistance in the preparation of an offence which ultimately was not committed is no offence under S 109 or S. 511, I. P. C 1925 Oudh 158=81 I. C. 986=25 Cr. L. J 1162=11 Oudh L J. 640.

5. For a conviction of abetment it is not only necessary to prove that accused took part in those steps of the transaction which are innocent but it is absolutely necessary to connect him with those steps of the transaction which are criminal. 10 C. L. R. 4.

6 An act done after an offence is complete which might help the offender does not amount to abetment. 22 Cr. L. J. 452

7. Mere subsequent knowledge of the offence is not abetment. (1865) 2 Weir (Cr.) 40

8. An offence can be abetted though the means intended to be employed are such that it is physically impossible that the effect requisite to constitute an offence should be caused by them, *e.g*, by charm. 20 P. R. 1885 Cr.

9 Abetment is possible though offence abetted is not committed. 34 B. 394, 46 C. 607, 4 C. 366. *See* 81 I. C. 986.

10 A person unknowingly assisting is not guilty of crime or of aiding and abetting. 1935 A 346 (2)=153 I. C. 999.

11. Whether there can be abetment of a negligent act. *See* 36 C. 302.

—**2. Abetment—when offence abetted is committed.** S. 109, I. P. C.

1 Assistance in the preparation of an offence which leads to nothing is no offence. 1925 Oudh 158=81 I. C. 986=25 Cr. L. J. 1162=11 Oudh L. J. 640.

2. Offering gratification as a reward or motive to withdraw a case under the Motor Vehicles Act, which had already been dismissed, was held not to amount to an abetment of bribery. 33 C. L. J. 379.

3. A person marrying his married daughter again in the lifetime of her husband is guilty under S. 109. 14 M. 364, 26 M. 463.

4. A person taking active part in the preparation of a document, but no part in the forgery of the name of the executant, is not guilty of forgery but of abetment only. 25 C. 207. *See* 14 Bom. L. R. 357.

5. Accused gave an order to 'beat' to his companions one of whom was armed with spear and the other with a lathi. They assaulted the deceased, who died of injuries. Held, that accused was rightly convicted under Ss. 304/109 I. P. C. 6. Pat. 627=1928 Pat. 100=107 I. C. 305=29 Cr. L. J. 239=9 A. I. Cr. R. 460.

6. A Hindu woman left her husband's house taking her infant daughter with her and went to the house of A and on the same day married the daughter to A's brother, without her father's consent. Held A was guilty of abetment of kidnapping. 8 C. 969, 1 M. 173, 19 A. 109. *Contra* 8 P. R. 1894 Cr., 13 P. R. 1893 Cr., 23 A. W. N. 233.

Abetment.—(*contd.*)

7. A married woman is not an abettor under S 498, I. P. C. 6 P R. 1871 Cr, 11 P. R. 1883 Cr. *Contra* 17 P. R. 1868.

8. A person giving food to dacoits before dacoity is guilty. 1934 Rang. 30

9. Active abetment at the time of committing offence is covered by S 109 where as S. 114 applies when a criminal first abets an offence and is subsequently present at its commission. 1933 B. 162=57 B. 329. 27 C. 566, 42 C 422 and 1925 P. C. 1 Ref.

10. S. 109 has no application if the offence is not committed. 1933 R. 297.

11. Owner is not guilty of abetment if his car is used for committing an offence A. L. R. 1933 R. 326 (327)

12. Where two persons are determined to do a particular act and one uses the fire arm the other is guilty of abetment. 51 I C. 449=20 Cr. L J 465

—3. Abetment—when offence abetted is not committed. S 116 I. P. C.

1. A vakil writing letter to other vakils to send cases and the fee will be shared between them, is an incitement under S. 116, I. P. C. 17 A. 498.

2. Accused offering a bribe to a civil surgeon cannot be awarded enhanced punishment under the latter part of S. 116, I. P. C, as it is not his "duty to prevent the commission of such an offence" 3 Pat. 647=1925 Pat. 48=83 I. C. 679=26 Cr. L. J. 119.

3 Abetment under S. 115 need not be of offence by particular person against particular person 1933 C. 47=60 C. 427.

4 When people who gather together in a meeting were instigated to commit an offence of murder the case comes under S. 115 and S. 117 as well 60 C. 427.

5 An abetment may be complete though effect contemplated was not caused. 1932 C. 760=140 I. C. 787.

6. The offence of kidnapping not being a continuing offence, there can be no abetment after the minor is completely taken out of lawful custody. 13 P. R. 1904 Cr. *See* 1 M 173.

7. First part of S. 116 applies to a person accused of abetment of bribing a police officer 1928 L. 840.

8. Offer of bribe to doctor to retain a patient longer, who had been ordered to be *discharged* is an offence under S. 116. 1930 M. 671=126 I. C. 603.

9. A person abetting a bigamous marriage to which the woman does not consent, is guilty under S. 116 as offence of bigamy is not complete. 18 Cr. L. J. 478=39 I. C 318.

—4 Abettor and Principal.

1. Agent selling *Atta* (flour) unfit for food is guilty as principal and not abettor. 15 P. R. 1873 Cr.

2. A principal who has been convicted of an offence as principal cannot also be punished for abetting it (1865) 4 W. R. (Cr.) 23.

3. Conviction of abettor is in no way dependant on the conviction of the principal 20 P. R. 1885, 1 B. 15, (1872) 18 W. R. (Cr.) 32, 1924 C. 1031=52 C. 112.

4. Abettor is an instigator, or settor or, or one who procures a crime to be committed *Wharton's Law Lexicon, P. 12.*

—5. Accessory after the fact.

1. Accessory after the fact is not punishable. 26 A. 197, 61 I. C. 836=22 Cr. L. J. 452, 11 P. R 1869 Cr. 27 C. 1041, 5 Pat. 536, 1923 L. 345.

2 An act done after the commission of offence which might help the offender is not abetment. 22 Cr. L. J. 452.

3 A person whose tonga is used for abducting a girl is an accessory after the fact and is not guilty. 1930 L. 163=120 I. C. 606=31 Cr. L. J. 131=1930 Cr. C. 171

4. A Hindu woman left her husband's house with her infant daughter and went to the house of A. She married the daughter to A's brother the same day without the consent of her father. A is guilty of abetment of kidnapping. 8 C. 969, 1 M. 173, 19 A. 109, *contra* 8 P. R. 1894 Cr. 13 P. R. 1893 Cr.

5. If there is conspiracy before the abduction of a girl between the principal and accessory, the latter is liable. 23 A. W. N. 233.

6. Evidence of accessory after the fact cannot be accepted without corroboration. 1936 O. 413.

—6. Advice if—

Advice *per se* is not necessarily abetment, unless it is meant actively to suggest or stimulate the commission of an offence. 54 I. C. 997=21 Cr. L. J. 213.

—7. Approval—*Sec*—14.

—8. Attempt at—

Attempt to abet an offence is possible. 49 P. R. 1874 Cr., 24 P. R. 1882 Cr.

—9. By advice—*See*—6.

—10. By aiding—

1. Supplying food to a person known to be engaged in a crime is not *per se* criminal. But if it was supplied to enable him to go on a journey to the intended scene of crime, it is abetment. 2 M. 137, 1 B. L. R. 351.

2. A wants to shoot B. A goes to the house of C and induces him to call B. B arrives and is murdered. C is not guilty of abetment, as it was not his intention that crime should be committed. 47 A. 268=1925 A. 230, 29 Cr. L. J. 561.

3. A zamindar, who lent a house to the police officer who tortured some persons at the investigation, is guilty of abetment. 16 A. W. N. 194.

4. A person who purchases a railway ticket for a person suffering from cholera and travels with him in the train is guilty of abetment of an offence under S. 269, I. P. C. 7 M. 276.

5. A person giving orders to assault a particular person is guilty of abetment. 7 W. R. 61 (1867), 31 C. 710.

6. Giving of a weapon to hurt another is abetment (1869) 12 W. R. (Cr.) 62.

7. If a person who lends his support does not know or has no reason to believe that the act which he is aiding or supporting was itself a criminal act, it is not abetment. 47 A. 268=1925 A. 230, 1928 Nag. 257=109 I. C. 497=29 Cr. L. J. 561.

8. Acceptance of unstamped receipt is not aiding. 8 A. 18, 7 B. 82, 7 C. P. L. R. 21, 23 P. R. 1876.

9. Accepting unstamped pronote is not abetment. 20 A. 440, 7 M. 71.

10. Attestation or writing of document whereby a child is sold for prostitution is not abetment. (1884) Weir 47.

11. A guardian of a Muhammadan married female aged six years who caused a marriage ceremony to be gone through in her name with another person, during the life time of her husband, in the absence of the girl, was held not guilty of abetment. 4 C. 10. *See* 6 C. W. N. 343.

12. Assistance in the preparation of an offence which ultimately was not committed cannot amount to abetment. 81 I. C. 986=25 Cr. L. J. 1162=1925 Oudh 158.

13. Supplying *Dhatura* to one's mistress to be administered to her husband is abetment. 38 I. C. 1003.

14. Doctor supplying medicine to poison a person is guilty of abetment. 24 P. R. 1882 Cr., 109 P. R. 1866 Cr.

15. Aiding in the preparation of an offence is not abetment unless that offence is committed 1925 Oudh 158=25 Cr. L. J. 1162.

—11. By being present at the commission of crime *Sec*—39

1 Mere presence at the commission of a crime cannot amount to intentional aid, unless the person present holds position of rank or influence such that his presence may be

held to be a direct encouragement, or unless some specific duty of prevention rests on him. 32 C. W. N. 783, 19 Cr. L. J. 63, 8 Rang. 603=1931 Rang. 1, 43 I. C. 93.

2. Persons present at the celebration of a bigamous marriage are not guilty of abetment, although the priest who officiates at it is guilty. 6 B. 126.

3. Husband looking on while wife is beating daughter-in-law, husband is not guilty of abetment. 1925 A. 126=85 I. C. 150=26 Cr. L. J. 470.

4. Mere presence of a constable at the beating of a prisoner by another constable to extort confession is abetment. 20 B. 394.

5. Omission to raise alarm when offence is being committed is not abetment. 25 I. C 625=15 Cr. L. J. 617.

6. An offence of abetment by presence falls through if the principal offence is not substantiated. 32 Cr. L. J. 478=1931 Pat. 52=130 I. C 269=1931 Cr. C. 148.

7. Abettor need not be present at the scene of occurrence. Presence makes him liable as principal. 1924 C. 257=81 I. C 353, 39 A. W. N. 1883.

8. Mere knowledge or standing while a theft is being committed by others is not covered by the definition of abetment. 1929 Sind 9=111 I. C. 732=29 Cr. L J. 924

9 If the accused came to the spot armed with lathi, even if he did not injure any one, he at any rate aided the infliction of injuries and is therefore guilty under Ss. 325—109 I. P C 132 I. C 529=32 Cr. L J 905=1931 Oudh 274.

10. Mere presence of a person near the scene of murder without having any weapon with him is not sufficient, by *itself for conviction for abetment* *33 I. C. 655*= 17 Cr. L. J 175.

—12. By conspiracy.—*See* Conspiracy.

1. It is sufficient if the accused engages himself in the conspiracy in pursuance of which the offence is committed 28 C. 797, 21 W R 35.

2. Where parties concert together and have a common object, the act of one of the conspirators *in furtherance of common object is the act of whole* (1871) 17 W R 15

3. A conviction for conspiracy cannot stand when the charge against other conspirators has failed. 9 C L J 663

4 Where riot is committed by some persons for the benefit of their masters, the latter cannot be convicted of abetment of the riot 1925 Nag. 372=88 I. C. 13=[illegible] Cr L. J 1069.

5 Where *a woman prepared herself to* commit suicide by becoming *suttee* and accused followed her to the pyre and one of them told her to say "Ram P[illegible] and then she would become *suttee*, held that accused were guilty of abetment [illegible] W. P 316

6. It is no defence that accused were expecting a miracle when offering a woman to become *suttee* 8 Pat 74=1928 Pat 497=9 Pat L T 683=29 Cr. L. J. 1035 =112 I. C 363

7. A woman who believes herself to be with child but not being *with child, conspires* with other persons to administer drugs to herself for abortion is liable for abetment of abortion. 24 Q. B. D 20

8. If one person makes a false report in pursuance of the conspiracy and another accompanies him and says nothing the person who tells the story is guilty under S. 182 and the other of abetment 3 O W N 96.

9. Under the Penal Code, conspiracy, except in cases provided for by Ss. 311, 400, 401, 402 and 121, I. P. C, is a mere specie of abetment when an act or omission *takes place in pursuance of conspiracy* 24 M 523

10. Abetment by conspiracy presupposes deliberate previous act on the part of abettor. 1935 Oudh 468=36 Cr L J 1151

Abetment.—(contd.)

11. Accused and approver in pursuance of conspiracy to commit theft conspired to kill H. Held, they were guilty under Ss. 302-109 in the absence of direct evidence as to who dealt the fatal blow. 1930 Pat. 164=127 I. C. 566.

12. It is not necessary that the act abetted should be committed nor that the abettor should concert the offence with the person who commits it. 28 C. 797.

—13. By illegal omission.

1. Omission to raise alarm or to interfere when offence is being committed is not abetment. 25 I. C. 625=15 Cr. L. J. 617.

2. Abetment by omission would be punishable if the omission were an illegal omission. 9 Bom. L. R. 159, 30 P. R. 1868 Cr., 1928 Nag. 257=109 I. C. 497, 1925 A. 126.

3. To prove abetment by "illegal omission" it is necessary to show that the accused intentionally aided the commission of the offence by his non interference. (1875) 24 W. R. 26 (Cr.)

4 The omission must involve a breach of legal obligation. 9 Bom. L. R. 159, 29 Cr. L. J. 561=1928 Nag. 257=109 I. C 497.

5. If the police officer omits to arrest a person who attacks a person in his custody, he is guilty of abetment 20 B. 394.

6. A village Magistrate who was present at the time when some constables were extorting confession and did not interfere is guilty of abetment. 1 Weir, 52 (1899).

7. A servant drove a car on the road over which traffic was prohibited, the master is not guilty of abetment where he omitted to inform him. 9 Bom. L. R. 159, 5 Cr. L. J. 173

8. A wrote a letter to C saying that B was X, and C on the faith of this assurance identified B as X at the treasury who withdrew the amount. Held, that failure to inform the treasury officer that he was identifying on the assurance of a letter is not an illegal omission, and therefore C was not guilty of abetment. 10 P. L. T. 657=1929 Pat. 157=116 I. C. 753=30 Cr. L. J. 642=13 A. I. Cr. R. 133.

9 There should be intentional aid by some act or illegal omission. 1 Bom. L. R. 351.

10. In a case of revolutionary songs, the president of a meeting is not liable for abetment. 1932 C. 549=138 I. 763=36 C W. N. 191=33 Cr. L. J. 699.

11. Accused was President of public meeting and bugle was sounded inspite of the orders of Police. He refused to disclose the name of bugler. Held, he was not guilty of abetment as he was elected President just before the meeting and he had no knowledge that bugle was to be sounded 1933 C. 36=34 Cr. L. J. 36, 1932 C. 549.

12 "Illegal omission" has reference to an intention of "aiding the doing of a thing." 1933 C. 36=34 Cr. L. J 36, 1932 C. 549 Rel on.

13. Omission of A to interfere where B beats C is not abetment and is not punishable. 1925 A 126=26 Cr. L. J. 470=85 I C. 150.

14. Where a head constable who knew that certain persons were to be tortured for extorting confession, purposely kept away, he was held guilty of abetment. 21 W. R. Cr. 11.

15. Omission to give information of a crime does not amount to abetment, unless there is a legal obligation. 4 B. L R. 7.

—14. By instigation or inducement.

1. A master ordering or facilitating the commission of a crime by servant is guilty of abetment 1928 C. 752=116 I. C. 372, (1872) 18 W. R. 8, (1869) 12 W. R. 52, 29 Cr. L. J. 239

2. If the riot is committed by servants for the benefit of the master, the latter can not be convicted of abetment of riot. 1925 Nag. 372=88 I. C. 13=26 Cr. L. J. 1069.

Abetment.—(*contd.*)

3. Placing of temptation is not instigation but actively stimulating one is instigation. 42 I. C. 989.
4. Informing husband against intriguing wife and lover being murdered, the informant is not guilty of abetment. 30 P. R. 1872 Cr. 49 P. R. 1887.
5. Instigation may be of an unknown person. 12 Bom. L. R. 105.
6. Expressing approval of accused in beating the tenants, when more blows were given to them, the accused is guilty of abetment. 25 A. L. J. 149=1927 A. 730=100 I. C. 537=28 Cr. L J 313
7. The offence is complete as soon as the abettor has incited another to commit a crime, whether the latter consents or not, or whether, having consented, he commits the crime or not. 12 Burma L R. 70
8. Asking a witness to suppress certain facts in giving evidence amounts to abetment. 2 M. H. C. R. 438
9. Where persons of influence being aware of the objects of the unlawful assembly deliberately absented themselves from the locality when such assembly was formed, it is not instigation 4 C W. N. 500.
10. Where the act instigated was only thrashing (the words used were 'Maro Sale Ko') but stabbing was done resulting in murder Held, stabbing cannot be deemed to be probable consequence of instigation to thrash, the accused was guilty under S 352 read with Ss 109 and 114 and was sentenced to 3 months. 1935 A. 346 (2) =153 I C 999 6 A 491 Rel on
11. Where A ordered B and C to forcibly take D and he was so beaten to death Held, A was guilty at least under Ss 326 107 7 W. R. 97
12 Statement to Public Servant—"A wished to pay you Rs 5,000" may with reference to context constitute instigation to receive a bribe 1923 B. 44=23, Cr. L. J. 466
13 Where one preson instigates another by letter sent through post, the offence of abetment by instigation is completed as soon as the contents of the letter become known to the addressee, is received 16 A. 389
14 Mere finding of approval or connivance is not sufficient 1921 Pat 304.
15 The word "instigate" literary means to goad or urge forward or to provoke, incite urge or encourage to do an act A person may not instigate but may co operate with him and his co operation may consist of counsel or conjoint action. In either case there is abetment. 1932 C 760
16 Advice *per se* is not instigation, unless it is meant actively to suggest or stimulate the commission of an offence The conviction resting on the finding that accused must have advised, etc, is wrong 54 I C 997=21 Cr. L J. 213
17. A person who instigates a raider or a leader of the raid in which murder is com mitted is guilty of abetment of murder 1934 C 221=35 Cr L. J. 334
18 M induced Z to personate C and to purchase a four anna stamp paper in the name of C. The purchase was so made M procured false endorsement for using it under C in Judicial proceeding M was guilty under Ss. 193-107. 2 A 105.
19. If there is no definite evidence of actual words used by accused in abetment, conviction is improper 1936 P. 608.

—15. By letter.

The offence of abetment by instigation is completed as soon as the contents of the letter containing incitement to commit an offence become known to the addressee. 16 A. 389

—16. By master or servant

1. A servant drove a car on a road over which traffic was prohibited, the omission to inform him by the master is not abetment 9 Bom L R. 159=5 Cr. L. J. 173.
2. Where riot is committed for the benefit of master, he is not liable. 88 I. C. 13.
3. If a servant commits an offence at master's instigation it is a mitigating circumstance. 1935 A 346 (2)=153 I. C. 999 (2).

4. A master is guilty of abetment of murder which is caused by beating of servants under his directions. 1928 C. 750=30 Cr. L. J. 621.

—17. By suppressing evidence.

Where the accused asked a witness to suppress certain facts in giving his evidence, it was an abetment of giving false evidence. 2 M. H. C. R. 438.

—18 Charge of.

1. It is not open to court to find a man guilty of abetment of an offence on a charge of the offence itself. 40 A. 120, 11 B. H. C. R. 240.
2. A person charged under S. 379 cannot be convicted under S. 109 for abetment of theft, if he is not charged with abetment. 33 M. 264, 60 I. C. 999.
3. In the absence of a definite charge of abetment being framed against an accused which he had no opportunity to meet, his conviction for abetment of murder under S. 302 read with S. 114, Penal Code, is wholly illegal. 118 I. C. 473=30 Cr. L. J. 944=1929 Nag. 325.
4. Accused charged under Ss. 302/34 cannot be convicted under Ss 302/114 I. P. C. 74 I C. 267=1923 C 453.
5. Where a conspirator is to be made responsible for an offence at the commission of which he is present, he should be specifically charged with such offence as read with S 114. 52 C. 253=1925 C 341=29 C. W. N. 173.

—19. Complaint of.

S. 196-A Cr. P. C, applies only to prosecution for conspiracy punishable under S. 120-B and not for abetment of conspiracy punishable under S. 109. 49 C. 573=1922 C. 107=26, C. W. N. 680=23 Cr. L. J. 657, 3 Rang. 95.

—20 Conviction for

1. Conviction for abetment is not dependent on the guilt of principal. 55 P. R. 1905 Cr. 45 P. R. 1911.
2. Conviction for abetment is possible, though offence abetted is not committed. 34 B. 394, 46 C. 607, 4 C. 366, 1922 B. 284=75 I. C. 299. 71 P. R. 1866 Cr.
3. Appellate court cannot convert a conviction for substantive offence into one of abetment. 33 M. 264, 71 P. R. 1866 Cr.
4. An abettor may be convicted even if principal is not arrested. 19 B. 105.
5. *Accused charged under S. 379 cannot be convicted under S. 109 for abetment* of theft, if he is not charged with abetment. 60 I. C. 999=22 Cr. L. J. 311, 33 M. 264.
6. It is irregular to convict and punish a person for abetment of theft and at the same time for receiving stolen propert.y 3 A. 181.
7. There can be no conviction for abetment of murder without proof of murder. W R. Sp 12.
8. A person cannot be convicted of abetment solely on the confession of accused implicating him in the offence. 5 C. W. N. 294.
9. A person who commits an offence and afterwards conceals the evidence of it cannot be convicted of the abetment of such an offence. 8 B. H. C. R. 126.
10. One can abet an offence through the means intended to be employed are physically incapable of causing the requisite effect. 20 P. R. 1885.
11. A person can be guilty of abetment, although the principal offender is incapable in law to commit the offence. A Hindu father marrying his 8 years' old married daughter is guilty of abetment of bigamy. 6 C W. N. 343.

—21. Instigating by approval—*See*—14.

—22. Joint trial of abettor and principal —*See* Joint trial—5.

—23. Jurisdiction

1. A person sending letter to another inviting him to commit an offence is guilty of abetment, as soon as the letter is read by the addressee and is triable at the place where received. 16 A. 389.

Abetment.—(*contd.*)

2. The abetment of an offence in British India by foreign subject residing in foreign territory is not triable in British India 20 P. R. 1878 Cr.

3. An offence under S. 366-A is a continuing offence. Where the offence and its abetment is committed in different places, the accused may be jointly tried at the place where the offence was first committed. 1930 A. L. J. 1485=1931 A 55=131 I. C. 246=32 Cr. L. J. 690=53 All. 140.

4. Where accused at C caused a telegram to be despatched at T to one J, the T court had jurisdiction to try offence under Ss. 420/511. 99 I. C. 127=1927 -M.-77=28 Cr. L. J. 95=51 M. L. J. 635.

5. If a British subject abets an offence committed in Native State, he can be tried under S. 108 A, I. P. C. 24 B. 287. 19 B. 105 Diss.

—24. Liability of abettor when act is different from that abetted.—S 111, I. P. C.

1. If a man instigates another to commit a particular crime and that other commits another crime in furtherance of that crime, the instigator is liable for the other crime as well. 6 A. 491 (494)=1884 A. W. N. 251.

2. It is necessary that the consequence would have been within the contemplation of a reasonable man. 6 A. 491.

3. Act must have been committed in pursuance of a conspiracy. 11 M. L. T. 1.

4. Where several persons turned out to beat a man and one of them killed him, others are liable for grievous hurt only. The killing was beyond the common purpose and was not the probable consequence of abetment. (1866) 7 W. R. (Cr.) 61 (97).

5. B and C instigated A to rob the deceased on his return home. A killed the deceased. A is guilty of murder but others are guilty under Ss. 109-392, I. P. C. 6 A. 491=1884 A. W. N. 251

6. The word 'act' in S. 111 means criminal act. 1931 Pat. 52=32 Cr. L. J. 478.

7. S. 111 applies only when the act done is probable consequence of abetment. 1935 Oudh 473. 6 A. 491 Foll.

8. When the actual injury caused is greater and is not the probable consequence of abetment, S. 110 and not S. 111 applies. 1935 Oudh 473.

9. When in pursuance of conspiracy to obtain a girl by show of force and on her mother's refusal, one of the two accused fired a gun. Held, that the other accused is not guilty of abetting the death of mother 43 *I. C. 827=19* Cr. L *J. 235.*

—25. Liability of abettor when effect caused is different—S. 113, I. P C.

1. A joined B in beating C with a heavy stick and in consequence C died of fractured skull. Held, both were guilty of murder. 1921 Nag. 78=23 Cr. L. J. 54.

2. Four persons beat the deceased and two of them gave fatal blows, others are liable. 41 P. W. R. 1914 Cr, 43 P. W R. 1914 Cr., 26 I. C. 667—1005.

—26. Of abetment—S. 108 (Expl. 4) I. P. C.

1. For abetment of abetment of an offence the offence need not be actually committed. 4 C. 366

2. Asking a doctor to supply medicine for poisoning a person is abetment of abetment. 24 P. R. 1882 Cr.

3. When abetment of an offence is punishable under S 109 or S 116, the abetment of said abetment is also an offence. 46 C. 607.

4. A sought the help of B with the intention of committing a theft of the property of B's master. B with the consent of his master and for the purpose of procuring A's punishment aided A in carrying out the object. Held that A is liable for abetment of theft, although theft was not committed. 4 C. 366.

5. Abetment of abetment is punishable. 1934 Pesh. 110

—27. Of attempt.—*See* Attempt to murder.

Supplying arsenic to accused with knowledge of the object is abetment of to murder by poison. 103 P. R. 106 Cr, 38 I. C. 1003.

Abetment.—(*contd.*)

—28. Of breach of by-law.

1. The abetment of a breach of the by-laws framed by a District Council under the authority of the Burma Rural Self-Government Act is not punishable under S. 109, I. P. C. as it is not an abetment of an offence within the meaning of that section. 115 I. C. 664=6 Rang. 791, 23 P. R. 1894 Cr.

2 S 107 does not punish the abetment of breach of by-laws framed under local law. 1929 Rang. 75, 7 B. H. C. 89, *see* 24 C. W. N. 196.

—29. Of breach of license.

1. If there is no guilty knowledge of vendor there is no abetment of breach of license under the Excise Act. 55 P. R. 1905 Cr.=3 Cr. L. J. 135.

2 Where a motor driver allows an unlicensed person to drive the motor car who injures passengers by upsetting the car and thereby is convicted for an offence under S 337, the motor driver cannot be convicted as an abettor under S. 107 as it cannot be said that he intended the car should be driven rashly and negligently 119 I. C. 536=1930 Sind 64=30 Cr. L. J. 1077=1930 Cr. C. 121.

—30. Of offence by public or by more than ten persons.—S. 117, I. P. C.

1. The mere fact that accused presided at a public meeting in which revolutionary songs inciting to murder were sung, is not sufficient to charge him of abetment. 36 C. W. N. 191=1932 C 549=138 I. C. 763=33 Cr. L. J. 699.

2 Exhorting Sikhs to form Shahidi Jathas for going to a certain place and collecting funds is an offence under S. 17, Criminal Law Amendment Act as well as under S. 117, I. P. C., as Jathas would be unlawful associations. 1926 L. 115=26 Cr. L. J. 1374.

3. Instigating the formation of unlawful associations and contributing towards it is an offence under S 117, I. P. C 5 L. 1=1924 L. 440.

4. Abetment of an offence under the Salt Act is not punishable under S 117, I. P. C. 7 O W. N. 895, 1930 Oudh 497. *Contra* 134 I C. 187=32 Cr. L. J. 1131, 55 B. 233, 1931 A. L. J. 986, 1931 B, 140=55 B. 353.

5. An offence under S 117, I. P. C and S 17 (1) of the Criminal Law Amendment Act can be tried as summons case. 131 I. C. 472=1931 B. 199=32 Cr. L. J. 718.

6 Where accused abetted 12 coolies in breaking their contracts, although it was separate offence under S. 492 by each coolie, the abetment was not punishable under S. 117. 3 W. R. 24 Cr.

7. Revolutionary songs were sung in a meeting. President not forbidding the same is not guilty of abetment 1932 C. 549=33 Cr. L. J. 699.

8 Instigating railway workers to lie on line in the event of strike is offence under S. 117. 1933 M 279 (1)=34 Cr L. J. 524.

9. Speech inciting audience to murder falls under Ss. 302-117. 1933 L. 660.

10. To constitute an offence under S. 117, the public should have read the leaflets in question or they should have been exposed to public gaze. 1932 C. 760=36 C. W. N. 782.

—31. Offences committed in Native States —S 108-A., I. P. C.

If a British subject in India abets an offence committed outside British India, he can be tried in British India. 24 B. 287.

—32. Of offences, *e. g.*, abduction, bribery, cheating, etc —*See* under these offences.

—33. Of offences under Registration Act.

In case of false recital as to purchase money in deed of sale to defeat pre-emptors, the vendee is not guilty of abetment. 23 P. R. 1869 Cr.

—34. Of offences under Salt Act.

1. The punishment under S. 177, I. P. C for abetment of an act which is an offence under the Salt Act is illegal as S. 9-A, Salt Act, provides for such a case. 1930 Oudh 497=1930 Cr. C. 1161.

Abetment —(contd)

2 S 109 does not apply to the abetment of a breach of by law framed under a local law 1929 Rang 75

—35 Of offence under Stamp Act

Accepting of unstamped receipt or pronote is not an abetment 18 P R 1895, Cr 20 A 440 7 M 71, 8 A 18 Distinguishing 5 C W N 30

—36 Of offence punishable with death or transportation —S 115, I P C

1 S 115 applies when abetment is not punishable under another provision of the code 1933 L 660=34 Cr L J 1207

2 'Express Provisions refer to sections in which abetment of offences punishable with death or transportations are dealt with 37 C W N 91

—37 Of offences under Special or Local Law

1 The offence of abetment can be committed in respect of offences under Penal Code and *not under Local or Special Law* 1929 *Rang* 75=30 *Cr L J* 509, 7 *B H* C R 89

2 S 109 does not apply to abetment of breach of by law under a local Act 1929 Rang 75 *See* 24 C W N 196

—38 Out of British India

1 A foreign subject, resident in foreign territory, instigating the commission of an offence which in consequence, was committed in British territory, is not amenable to the jurisdiction of British Courts 10 B H C R (Cr C) 356, 20 P R 1878

2 S 188 Cr P C has no application when offence of abetment has been committed outside British India 19 B 105 *See* 24 B 287

—39 Presence of abettor —S 114 I P C *See*—11

1 To come within S 114 I P C, the abetment must be complete apart from the presence of the abettor at the scene of offence 106 I C 584=1927 M 1115=29 Cr L J 72 42 C 422 1925 M 364 1932 L 483=138 I C 191, 51 M 263, 1933 Rang 236 1934 L 813 27 C 566

2 Where a person who abets the commission of an offence is present and helps in it, he is guilty of the offence and not merely of abetment except in a few cases like rape or bigamy where the person committing the offence alone can be guilty of the offence 1927 M 97=97 I C 958=27 Cr L J 1198 7 Rang 329=118 I C 637 1933 M 123=34 Cr L J 90

3 S 114 is evidentiary and not punitory It applies to a case where a person abets the commission of an offence some time before and is again present at the time when offence is committed 1925 P C 1=52 C 197=85 I C 47, 97 I C 958= 1927 M 97 1925 M 364=82 I C 262

4 The words of S 397 I P C are not such as to exclude the operation of Ss 114 and 34 of the Code 82 I C 45=25 Cr L J 1181=1925 Nag 136

5 One a used not joining in attack with the same intention as the others S 114 cannot be applied 1923 L 170=5 L L J 414

6 Where a woman was at the time of murder sitting on a charpoy at a distance of eight yards and was urging the assailants to kill her victim she is guilty under S 302 read with S 114 27 P L R 716=26 Cr L J 65

7 Decoying deceased into the clutches of murderers is abetment of murder 68 I C 17=23 Cr L J 481=1922 Oudh 202 6 A 509

8 S 114 resembles S 34 in this that it rather regulates procedure and punishment than creates an offence 81 I C 353=1924 C 257=25 Cr L J 817

9 Persons assisting an accused to commit murder whether by themselves assaulting the deceased or by preventing his friends from helping him are guilty of the same offence as the accused If they merely go to the spot with *some innocent intention* and the accused suddenly commits a murder without their assistance and possibly contrary to their wishes they can be guilty of the offence if any which they themselves commit 104 I C 242=1927 Oudh 321=25 Cr L J 802.

Abetment.—(*concld.*)

10. A conspirator who stood outside of a house while his friends entered inside and looted it and watched out in pursuance of the common design, was guilty under S. 114. *I Bom. L. R.* 351.

11. R gave orders to beat and the deceased was struck with a heavy stick. Conviction of R under Ss. 302/114 is improper. 42 C. 422. *See* 8 L. L. J. 509.

12. Persons who incite others to commit criminal trespass although they do not commit it themselves are guilty as principals. 28 Bom. L. R. 1029=1925 Bom. 512=27 Cr. L. J. 1153.

13. Abettor present at the scene of occurrence is deemed to be a principal in the second degree. 7 Rang. 329 (338)=1929 Rang. 293=30 Cr. L. J. 961.

14. If an abettor, on account of his presence, is to be charged under S. 114, on principal, his abetment must continue down to the time of the commission of the offence. If he distinctly withdraws at any moment before the final act is done, the offence is not committed with his continuing abetment. 10 B. H. C. R. (Cr. C.) 497.

15. S. 109 deals generally with abetments, but S 114 applies only where not only abettor is present at the time of the act but abetment is completed prior to and independent of his presence. 1935 Oudh 468=36 Cr. L. J. 1151=157 I. C. 370.

16. S. 114 applies only to those cases only in which the accused if absent would be liable as abettor. 1935 Oudh 473, 1925 Oudh 468 Foll.

17. Two persons armed with gun were retreating from a robbery and one of the pursuers was killed by a shot from one of them. Held that the other was guilty under S. 302 read with Ss. 34 and 114. 1934 C. 10=38 C. W. N. 108=61 C. 190.

18. S. 114 is different from S. 34 as the act of abetment falling under S. 34 is committed at the time the offence itself is committed. *29 C.* 496, *5 Cr. L. J.* 414.

19. S 114 contemplates abetment as having taken place at some other place and time than the commission of the offence itself. 15 P. R. 1899.

20. S. 75 does not apply to offence under this section. 7 Cr. L. J. 32 (34).

—40. Sentence.

1. Out of the four accused under S. 302, two were *sentenced to transportation for life* and the other two were found guilty of abetment and were present at the occurrence and were sentenced to seven years' imprisonment. Held, the sentence is illegal. The latter were liable to capital sentence or transportation for life. 1930 L. 338, =32 Cr. L. J. 56=127 I. C. 855=12 L L. J. 3, 1896 P. J. L. B. 269.

2. If a person is convicted of an offence read with S. 114, and if the offence under the particular section of the Code renders the offender liable to whipping, he is punishable for whipping as well. 118 I. C. 637=7 Rang. 329=1929 R. 293=30 Cr. L. J. 961.

3. A consignment of til seed was loaded into nine buffalo carts. Two were driven by A and B, who left the road leading to their destination and went to a godown for abstracting the seed, where C was directing operations. C was tried separately for each cart. Held, that C was abetting an offence by each carter separately. 1923 C. 403=761 I. C. 651=25 Cr. L. J. 219.

AB INITIO.

A person who abuses the authority given him by law becomes a trespasser *ab initio, i. e* is liable as a trespasser from the beginning. *Wharton's Law Lexican P. 12.*

ABORTION.—

—1. Abetment of—

A person supplying drugs to the woman for the purpose of bringing about miscarriage is guilty of abetment, although miscarriage is not caused. 10 Cr. L. J. 19.

—2. Attempt Ss 312—316 I. P. C.

1. The expulsion of child brought about by artificial means would be premature labour upto the sixth month of pregnancy. A person employing criminal means may be convicted of an attempt. 19 W. R. 32 Cr.

Abortion—(*contd*)

2 Accused asked her mistress to take drug to procure miscarriage ... powder but spat it out He wanted to put the liquid in her ... cried out Held accused was not guilty of attempt ... Cr L J 97

3 If the drugs employed are harmless and impossible to cause miscarriage ... not guilty 37 C W N 1151=A L R 1934 C 110

—3 Causes of

—A Accidentl or natural

1 The natural causes are so frequent that according to Wh... 2 000 pregnancies one in seven terminated in abortion *Ta... Vol II, P 143*

2\. Some of the well recognized natural causes are —

(*a*) Specific fevers of all kinds During an attack of fever the ...

(*b*) Excessive Vomiting

(*c*) Ghorea Gravidarum

(*d*) Bright s disease—especially if advanced

(*e*) Advanced heart lung or liver disease

(*f*) Syphilis

(*g*) Uterine and ovarian disease

(*h*) Disease of the placenta—syphilitic or other degenerative ... haermorrhage

(*i*) Disease and especially the death of foetus *Taylor s Me... Pp 143 144*

3 Among the ordinary or accidental cause may be enumerated ... the impression of strong odours the fright caused by thun... sights of frightful objects errors in diet, stimulating fo... spirituous liquor too much exercise, the agitation of carriage ... falls or blows on the abdomen wounds tight clothing ... excessive venery surgical operation of any kind even the e... Sometimes abortion is the result of syphilis etc The p... atmosphere also produces abortion sometimes as an epider... *1836, P 270*

4 Accidental or natural causes may be divided into Maternal ... *Ryan s Med Jur 1935* Pp 383 384

—B. Drugs—

1 There is no drug and no combination of drugs which will ... cause a healthy uterus to empty itself unless it be given ... to seriously endanger by poisoning the life of the woman ... *Med Jur 1928 Vol II Pp 155 159*

2 Among direct emmenagogues the following drugs have b... time aloes, canthrides canlophyllin borax apiol, p... manganese dioxide myrrh, etc etc —*Ibid*

3 Quinine definitely increases uterine contraction but there ... that it will produce abortion even when pushed —*Ibid Pp 270 271*

4 The substances popularly believed to possess abortif... (*a*) Lcbolics (*b*) Reputed Emmenagogues (*c*) Purgat... (*e*) other substance like juice o bamboo leaves *L... Pp 385 390*

ir ... preg ... , the ... they ... iter

—C Local injection

1 The injection of a fluid into the uterus for the purpo... frequently carried out by the woman herself

bortion.—(*contd.*)

2 Apart from the danger of active drugs, such as corrosive sublimate there is also a danger of death from shock. *Taylor's Med Jur. 1923, Vol. II, Pp. 153-154.*

3. The mere mechanical effect, of an innocant liquid frequently applied may be more effectual in producing abortion or premature labour than the use of irritating liquid. Tepid water has often been used. *Ibid.*

4. It is not material to prove that the liquid employed is *per se* of a "notxious" nature. *Taylor's Med Jur. 1928, Vol. II, Pp 153-154.*

(D) Violence.

1. Among the mechanical causes may be mentioned several exercises and the violent agitation of the body, as by riding or driving over a rough pavement, in which case no marks of violence will be present. *Taylor's Med. Jur. 1928 Vol. II, Pp. 146-147.*

2. Any physical shock sustained by the body may operate indirectly on the uterus. *Ibid.*

3. Blows or violent pressure on the abdomen are sometimes resorted to, but in these cases the marks of violence may be perceptible. *Ibid.*

4. Playing violent games in an advance state of pregnancy might produce abortion. *Ibid.*

5. It is possible that a lougic, catheter, or similar instrument may be passed into a pregnant uterus without abortion following, but such an event will be unusual. This might happen in the early days. *Taylor's Med. Jur. 1928, Vol. II, Pp. 149-150.*

6. Abortion does, as a rule, occur because either the membranes happen to be ruptured, leading to death of the foetus ; or a portion of the placenate is separated, and the uterus is too weak or irritable to repair such damages, or lastly by the introduction of anything through its cervix. *Ibid.*

7. The professional abortionists in India are *Dais* who generally adopt the following methods :—They insert into the uterus a twig of tree about six or eight inches long, smeared with asafoetida. The membranes are raptured, abortion takes place, and if the woman dies from peritonitis, the walls of the uterus will usually be found perforated. *Taylor's Med Jur. 1928, Vol. II, P. 151.*

8. The rupturing or separating of the membranes, with or without dilation of the Os ; the insertion of a foreign body into the uterus, or the use of the vaginal douche are the means of inducing premature labour commonly employed by medical practitioner. *Lyon's Med Jur. 1935, P. 385.*

—4 Causing death by—S 314, I. P. C

Where poisonous drug was administered to procure miscarriage and it resulted in death, and it was not proved that the accused knew that the drug would be likely to cause death, he was guilty under S. 314 and not of *murder*. 10 W. R. Cr. 59.

—5. Essentials and evidence

1. A woman attempting to take her own life owing to severe pains of labour and the child born dead is not guilty of abortion 50 I. C. 1003.

2. A midwife introducing two sticks in the womb of a pregnant woman and the latter delivering prematurely is guilty. 46 P. R. 1876 Cr.

3. A *foetus* not bigger than a man's finger but having the shape of child is child within the meaning of S 312. 5 C. P. L. R. 21 (Cr.)

4. A woman who had been pregnant only for a month cannot be said to be "with child". 9 M. 369.

5. The word "with child" means pregnant. Perception by mother of the movement of *foetus* is not necessary. 9 M. 369.

Abortion.—(*contd.*)

—6. Examination of the child.

When an instrument is used injury may possibly be inflicted upon the child. This is more likely to happen with an ignorant person than in skilled attempts and more likely with a sharp pointed instruments than with blunt catheters, etc. *Taylor's Med. Jur. 1928, Vol. II, P. 169.*

—7. Examination of woman. *Sec*—9.

1. The mucus membrane of the vagina, the cervix and cavity of the uterus must be carefully examined for cross evidence of the passage of an instrument before the parts are manipulated. *Taylor's Med. Jur. 1928, Vol. II, P. 169.*

2. There is very clear evidence that when labour is impeded by a serious disproportion between the size of the head, and the calibre of the passage the uterus may be torn (either in its body or in its attachment to the vagina) by its own contractions. *Ibid.*

3. If wounds are found only of slight character, such as tears in the cervix, it may be impossible to say that they were not due to child's head, but if on the outer or vaginal surface of the womb wounds are found and especially *punctured* wounds of the vagina itself, these could not have been done by the child, and there is a clear evidence of the violence for a purpose. *Ibid.*

4. The phenomena presented by abdomen and external genitals, can only be valuable in proof of abortion when conjoined with the following circumstances:—(*a*) when there is a certainty of pregnancy, (*b*) when the pregnancy is so far advanced that the changes in the Os. and cervix uteri are appreciable; (*c*) when examination is made immediately after the abortion has taken place. *Lyon's Med Jur. 1836, P. 269.*

5. The uterus may be found enlarged, the enlargement being greater, the more advanced the period of gestation at which delivery took place and the less the time which has elapsed since the event. Its dimension, a day or two after delivery after full term will be 7 to 8 inches by 4 inches, and its weight as 1½ lbs. *Lyon's Med Jur. 1935, P 391.*

—8. Sentence.

1. Consent of a woman to abortion is a mitigating circumstance. If a woman takes an abortive, knowing it as such, she is a consenting party. 1 W. R. 59.

2. In the case of a woman accused to whom the exposure and indignity of a criminal prosecution is sufficient punishment, nominal sentence would be proper. Gour. Penal Law of India. Ed, (1925) Para. 3218.

—9. Signs of.—See delivery.

1. To determine whether abortion has taken place, the product of abortion and the woman must be examined. Without seeing the substance expelled, no body can give a satisfactory much less a decisive opinion. *Ryan's Med. Jur. 1836 Pp. 265 268.*

2. During the first two months of utero gestation, we must be extremely cautious and take care not to confound the foetus with a mole or false conception... Towards the end of *first* month the extremities begin to appear in the form of round tubercles, and umbilical cord is seen attached to the intestine; the liver is large and fills the abdomen. In the course of *second* month, the head is equal in size to nearly half the body; the eyes are seen as two black spots, the nose, nostrils and the ears are apparent; the arms and legs begin to appear and the toes and fingers are distinctly observable. *Ibid.*

3. It is difficult and often impossible to conclude in the first three months of pregnancy, that abortion has or has not occurred *Ibid.*

4. If the embryo is expelled at the end of first or second month of pregnancy, the vessels of the uterus connected with it and the placenta are so small, that they will readily contract, and not allow of any haemmorrhage. *Ibid.*

5. It has happened that abortion has occurred at this period and in an hour afterward it was impossible to prove it by physical means. *Ibid.*

Abortion.—(*contd.*)

6. It is considered, that the examination of the vagina or uterus, after abortions, before the eighth week of pregnancy, does not afford positive evidence. The ablution of the genital fissure, or the injection of water into the vagina would remove all traces of blood. *Ibid.*

7. After the *third* month, the external orifice of the genital fissure, and the Os uteri, will be more or less dilated; there will be sanguineous or lochial discharge for one or several days and the physical signs are conclusive. *Ibid.*

8. If abortion occurs from this period to the *seventh* month, the physical signs are conclusive, if detected during the first five days after disease *Ibid.*

—10. Substances expelled from uterus.

1. Substances alleged to have been expelled from uterus may contain no embryo-e g, they may be blood clots, a fibroid tumour, a dysmenorrhaecal false membrane, a mole or hydatids. *Lyon's Med. Jur. 1935, P. 387.*

2. They may contain an embryo, or immature foetus. *Ibid, P. 388.*

3. What has been expelled may be a natural child. In such a case it is of course possible that miscarriage has not occurred at all. *Ibid, P. 38*[illegible]

ABRASION—*See* wound.—1

ABROGATION.

The annulment of law by constitutional authority is abrogation. It stands opposed to *rogation* and is distinguished from *derogation* which implies taking away only some part of law, from *subrogation* which denotes adding a clause to it. *Encyclopaedia, London. Wharton's Law Lexicon P. 13.*

ABSCONDING. S. 8, Evi. Act. Ss. 87-88—512, Cr. P. C. *See* Absence of accused.

—1. Attachment and sale of property of accused.—Ss. 87, 88, Cr. P. C.

1. If accused absconds after discharge and before an order for further inquiry, attachment of property is illegal. 15 P. R. 1893 Cr.

2. A magistrate can issue simultaneous orders of proclamation under S. 87 and attachment of property under S 88, Cr P. C 29 C 417, 61 I. C. 794, 9 C. W. N. 125.

3. The order for attachment of property which is undivided and belonging to a coparcener of a joint Hindu family cannot be made. 2 Weir 43.

4. Where land is subject to lease, the sale should be subject to the rights of the lessee. 9 P. R. 1908 Cr.=8 Cr. L. J. 260=25 P. W. R. 1908.

5. High Court can set aside an attachment on the ground of illegality of proclamation. 39 P. R. 1917, Cr 32 P. R. 1919 Cr, 19 M. 3 *Cont.* 22 A. 216, 15 P. R. 1893 Cr.

6. Accused can institute civil suit to set aside sale on the ground of illegality of proclamation. 27 A. 572

7. If court is not authorized to issue warrants, it cannot order attachment of property. 15 P. R. 1893, Cr. 14 B. L. R. 889.

8. Reversioners have *locus standi* to contest sale. 8 P. R. 1911 Cr.

9. The property of an absconder should be freed from attachment on the death of absconder. His interest, which is attached, must be released in favour of his heirs. 1925 L. 629=88 I. C. 460, 52 P. R. 1915 Cr., 18 P. R. 1908 Cr.

10. Doctrine of *lis pendens* applies to sale under S. 88, 1929 B. 200=116 I. C. 271.

11. No more than the interest of accused in joint family property can be attached. The proper course would be to proceed under O. 21 and S. 47, C. P. C, 1932 M. 538.

12. The position of Government with regard to attached land is that of a receiver in possession of management. 1930 M. 1017=1930 M. W. N. 1021=129 I. C. 47.

13. The land of absconder vests in the Government from the date of attachment. 1929 B. 208=116 I. C. 271, 9 C. 861=12 C. L. R. 411.

14. An attachment of property is not authorized in a district other than that of issuing magistrate except when the order of attachment is endorsed by the District Magistrate in whose district the property is situate 1930 Pat. 347=31 Cr. L. J. 494.

Absconding—(*contd*)

15 Doors of a house are moveable property but the frames embedded in the wall are immoveable property 125 I C 784=1930 Pat 387=31 Cr L J 937

16 Failure to give notice merely amounts to irregularity 1934 L 987

17 If property is attached the remedy of accused is only by application under S 89 Court has no inherent jurisdiction to release it 1934 L 987

—2 Conviction of accused

Convicting and sentencing an accused in his absence is illegal 105 I C 683 (*a*)=192/ L 870—26 P L R 239=28 Cr L J 971

—3 Duty to produce absconding co accused

It is not the duty of accused to produce his absconding co accused 1930 L 953=129 I C 485=1930 Cr C 1049

—4 Evidence as to—*See* Absence of accused —*2*

In admitting evidence recorded in the absence of accused finding as to absconding and due pursuit is essential 21 P R 1883 Cr, 96 I C 12=1926 A 340=27 Cr L J 874=48 A 375—*See* 6 L 489=1926 L 83, 41 A 60

—5 Meaning of—

1 It does not necessarily imply change of place It means to hide oneself, even if it be before the issue of process and continuing to do so afterwards 4 M 393 2 C L J 625

2 One who files a revision against the order of proclamation is not absconding 1922 P L R 65 67 I C 726

3 An absent person should not be too readily taken to be absconder without u enquiry and notice 2 Weir 40

—6 Presumption from—Conduct

1 There can be no presumption of guilt as to the absconding of accused 314 P L R 1913 1931 L 38 4 P L R 1915

2 Absconding is but a slight evidence of guilt usually 62 I C 545 5 W R 28= 2 C W N 81 22 Cr L J 529

3 The evidence of absconding is of no weight either way 15 C W N 198 47 A 280=1925 A 303=85 I C 650=26 Cr L J 554

4 Absconding is only a ground of suspicion 46 I C 709

5 The fact of accused s absconding is not inconsistent with his innocence as he might have run away in fear of knowing that an incorrect accusation had been brought against him 4 P L R 1915=27 I C 219

6 Where there is no evidence against the accused except the fact that he had absconded or when arrested gave a false account of his movement he cannot be convicted 1927 Pat 257=101 I C 881=28 Cr L J 497 1931 L 38=32 Cr L J 522

7 Different persons are differently constituted and some though innocent deliberately abscond rather than face the trial 1930 Oudh 324=31 Cr L J 1081

8 Absconding of accused though not proof of guilt is of great corroborative value 1935 Pesh 75

9 The conduct of a person in absconding after the commission of crime is evidence to show that he was concerned in the offence 62 I C 545 22 Cr L J 529 13 M 426 (432) 9 A 528 (545) 1930 Oudh 324=126 I C 654 2 C W N 81 and S 8 ill (i) Ev Act

10 Accused ran away to avoid the consequence of being charged with an offence different from that for which he was being tried no importance should be attached to the fact of his running away 2 C W N 81

11 Where in a riot case mob was one thousand strong and 72 were challaned Eight absconded The inference is that they absconded due to consciousness of guilt 1934 A 776=35 Cr L J 919

Absconding.—(concld.)

12. Prosecution must prove that absconder was present before the occurrence. 1934 Pesh. 70.

13. The maxim "*fatetur facinus qui judicium fugitis*" is not to be applied to India. 1934 Pat. 533. 1915 L. 106=16 Cr. L. J. 155=27 I. C. 219.

—7. Restoration of absconder's property.—S. 89, Cr. P. C.

1. It is only when the applicant for restoration of property shows both that he had not absconded and that he had not proper notice, that the property can be restored. 1926 L. 662=27 P. L. R. 825=96 I. C. 977=27 Cr. L. J. 1025.

2. A civil suit for the setting aside of a sale under S. 88 is barred by the provisions of the Code. 10 L. 338=1928 L. 562=111 I. C. 508.

3. If the provisions of S. 87 have not been complied with, the attachment or other penal consequences are void. 19 M. 3, 22 A. 216.

4. S. 89 applies to a case where the validity of attachment proceedings is challenged. 39 P. R. 1917, 40 P. W. R. 1916; 22 A. 216, 27 A 572 & 19 M. 3 Dist.

5. Not only the petition for restoration must be made but also the necessary facts should be proved within two years. 1926 L. 662=27 Cr. L. J. 1025.

6. If no application is made within 2 years, High Court has no jurisdiction under S. 561-A to order restoration. The proper remedy is an application to Government. 82 I. C. 365, 6 P. R. 1917 Cr.; 15 Bom. L. R. 175.

7. Accused need not apply himself for restoration of property, the application can be made by any one on his behalf. 15 Bom. L. R. 175=14 Cr. L. J. 237.

8. Where property is sold, the applicant for restoration can get only the net proceeds of the sale. 73 I. C. 269=24 Cr. L. J. 573.

—8. Revision.

1. An order under S. 88 is a proceeding within the meaning of S. 435 and can be revised by the High Court. 76 I. C. 18=1924 L. 617=25 Cr. L. J. 82.

2. When land is attached without warrant, the High Court can interfere under the inherent powers. 1926 L. 662=96 I. C. 977=27 Cr. L. J. 1025.

—9. To avoid service.—*See* absconding to avoid service.

ABSCONDING TO AVOID SERVICE.—S 172. I. P. C.

—1. Absconds.—

If a person having concealed himself before process issues, continues to do so after it has issued, he absconds. 4 M. 393 (397)=1 Weir 76.

—2. Applicability.

1. S. 172 does not apply to a person who absconds from a warrant of arrest, as it is not an order to the person but to police. 50 A. 666=1928 A. 232=30 Cr. L. J. 203, 28 P. R. 1890, 2 C. L. J. 625.

2. To avoid the service of process, which has not issued, is no offence under S. 172, I. P. C. 28 P. R. 1890, 5 W. R. 71 Cr.

3. S. 172 does not apply to warrant issued, by Civil Court. 1883 A. W. N. 222, 28 P. R. 1890. 1 Weir 75.

—3. Essentials and evidence.

1. A person cannot be said to abscond if he merely intended to get rid of the process server, e.g. where he refused to accept service, abused the process-server and went inside the house. 10 O. A. L. R. 439.

2. An absconder cannot be convicted under S. 172, where summons issued to him did not mention place for his attendance. 4 M. 393.

3. Police reported that the trees of accused overhang another house. The Magistrate issued an order to accused to lop off branches or show cause. The police wanted accused to sign receipt of this order, which he refused. Held, the order and the request made for receipt were illegal. 1883 A. W. N. 222.

Absconding to avoid service—(concld.)

4. S. 172 applies to accused who was placed in charge of attached property and did not produce it for sale and avoided the notice to produce it. 16 A. L. J. 600.

5. S. 172 applies only if a summons or notice is to be served on accused and who absconds to evade service. 1936 A. 354=162 I. C. 755.

6. Absconding of the accused, when an order under S. 552, Cr. P. C. for the restoration of a woman is issued by District Magistrate, in order to avoid it, is no offence. 1936 A. 354=162 I. C. 755.

ABSENCE OF ACCUSED.—Ss. 512, 540-A. Cr. P. C. *See* absconding : exemption from personal attendance.

—1. Conviction in—

Convicting and sentencing an accused in his absence is illegal. 105 I. C. 683, 3 M. H., C. R. App. 34.

—2. Evidence taken in.—S. 512, Cr. P. C.

1. Evidence taken in the absence of accused cannot be admitted unless it was proved and found that he had absconded at the time. 38 A. 29, 21 P. R. 1883, 1890 A. W. N. 100.

2. The fact of absconding should be alleged, tried and established before the deposition of a witness is recorded. 10 C. 1097, 48 A. 376.

3. Mere omission to record a finding that there was no immediate prospect of arresting accused who had clearly absconded does not render evidence inadmissible. 41 A. 60, 6 L. 489=1926 L. 83=92 I. C. 423.

4. Evidence taken in the absence of accused under S. 512 cannot be treated as evidence if the witness is living and can be procured. 157 P. L. R. 1911=12 Cr. L. J. 214.

5. Convicting and sentencing absent accused is illegal. 1927 L. 870=105 I. C. 683=26 P. L. R. 239=28 Cr. L. J. 971.

6. A deposition recorded under S. 512 can be read only if deponent is dead or incapable of giving evidence. That he cannot remember the details is no sufficient ground 1924 L. 605=76 I.C.31=25 Cr. L. J. 95.

7. A pardon can be tendered to a co-accused even if the principal accused is absconding. In such a case his evidence can be recorded under S. 512. 46 B. 120=1922 B. 177.

—3. Medical Certificate for.

A certificate granted by a qualified doctor is sufficient evidence of accused's inability to attend, unless the certificate is to be disregarded for any reason. 1925 L. 101=81 I. C. 126=25 Cr. L. J. 638.

—4. Trial in—S. 540-A, Cr. P. C.

1. Court cannot appoint pleader without the consent of the accused, when he is ill and cannot attend personally. 11 L. 220=1929 L. 705=1929 Cr. C. 351.

2. A Judge passed an order under S. 540 A dispensing with the presence of the accused, so that he may see his relatives. Held, that order was not correct because S. 540 A is applicable to a case where accused is incapable of remaining before the Court. Held further, that it was a mere irregularity and the trial could be proceeded with without recalling the witnesses. 1930 A. 817=1930 A. L. J. 1076.

3. Order under S. 540-A can be passed in the absence of the accused. 1932 L. 103.

4. Absence of accused, as he wishes to go to some remote place is no ground for applying S. 540-A. 1932 A. 504.

5. S. 540-A does not authorise Magistrate to dispense with attendance of accused who is too ill to attend Court. 1936 Rang. 114=37 Cr. L. J. 436.

—5. When officer on tour

When officer is in camp he should not dismiss an appeal in default. 11 P. R. 1905 Cr.

ABSENCE OF COMPLAINANT.—*See* Ss. 247, 259, Cr. P. C.

A.—In Summons cases, S. 247, Cr. P. C.

Absence of Comlainant.—(*contd.*)

—1. Absence.

1. The acquittal of the accused under S. 247 on the day fixed for judgment on account of absence of the complainant is improper. 71 I. C. 669=1923 Nag. 158, 46 C. 867.
2. When case is adjourned for arguments, S. 247 applies. 39 M. 505, 18 C. W. N. 584=15 Cr. L. J. 163.
3. If the absence of the complainant is due to circumstances beyond his control, the complaint should not be dismissed. 42 C 365, 38 M. 1028.
4. If the magistrate takes up the case on a day on which it is not fixed and dismisses it, the dismissal is not under S. 247, *Cr. P. C. 1934 A. 1025.*
5. If the accused is acquitted owing to absence of complainant on a date not fixed for the hearing, the order of acquittal is nullity. 42 C. 365, 1934 A. 1025.
6. Where the complainant had no notice of an adjourned date and was therefore necessarily absent, an order of acquittal is not valid. 1928 M. 1158=113 I. C. 625.
7. When the case is called for the purpose of fixing a new date, absence of complainant is no ground for taking action under S 247 1934 B. 130=35 Cr. L. J. 1139.
8. If the complainant is absent, magistrate has discretion to dismiss the case. 1932 M 563, 2 Weir 307 Dist. 1936 A. 658

—2. Appearance and its delay.

1. Appearance by pleader is insufficient unless specially allowed. 49 M. 883.
2. Magistrate is not bound to wait for the complainant till the close of the day. 7 M. 213, 49 M. 883=1926 M. 1009=96 I. C. 652.
3. Where a party summoned to appear at 11. A. M., appeared at that time but did not wait till 2 P. M when the court commenced to sit, there is sufficient appearance, 1927 M. 393=99 I. C 944.
4. If a complainant is present in another room of the court by mistake, the complaint should not be dismissed. 37 I. C. 312, 61 I. C. 59
5. When particular place to appear is not specified, accused cannot be acquitted under S 247, 1882 A. W. N. 229.
6. Complainant not appearing owing to non service of notice and ignorance of the postponed date, cannot be said to be absent within the meaning of S. 247. 52 M. 695.
7. Non appearance on a date that it was holiday is not a sound excuse and the magistrate must proceed under S 247, 1923 M. 439=52 I. C. 885.

—3. Fresh trial. S. 403, Cr. P. C.

1. Acquittal under S. 247 for absence of complainant bars further trial. 1929 C. 189 =116 I. C. 174, 34 M. 253, 1923 A. 360, 99 I. C. 855, 40 M. 976, 61 I. C. 59.
2. The Code does not make any distinction between acquittals after trial and acquittals under Ss. 247, 345, 494 Cr. P. C. at the initial stage of the case 1921 Pat. 311= 61 I. C. 59, 40 M. 976, 29 M. 126 Dist.
3. The word "tried" in S 403 does not necessarily import a decision of any case on the merits. 99 I. C. 855, 1923 A. 360.
4. Accused cannot be tried for theft in case of acquittal under S. 247 for mischief under S. 426 on the same facts 1923 C. 407=76 I. C. 293.
5. Where summons are issued to accused but the complainant does not appear even through summons have not been served, fresh complaint is barred under S. 403, Cr P. C. 1935 C. 491=36 Cr L. J. 1238.
6. Where the complainant is absent on a date not fixed for hearing 42 C. 365 or when he had notice of the adjourned date (1918 M. 1158) and being absent the accused was acquitted, the acquittal is nullity. But it must be set aside before the case can proceed. 1935 C. 491 (494)=36 Cr. L. J. 1238.
7. The fact that complainant mistook the date will not entitle him to bring fresh complaint if accused is acquitted under S. 247. 1934 L. 211 (2).

of Comlainant—(*contd*)

—4 Object

The object of S 247 is to prevent the complainant from being dilatory in prosecution of the case and if he is not present when the case is called on for hearing the accused is entitled to acquittal 49 M 883—1926 M 1009—96 I C 652

—5 Procedure

1 If a warrant case is tried as a summons case complaint cannot be dismissed for absence of complainant 28 C 652 28 C 211

2 But if summons case is tried as warrant case the acquittal of accused for absence of complainant is legal 1923 M 139—72 I C 885=24 Cr L J 469

3 If the same transaction gives rise to two offences—one summons case and the other warrant case the procedure of warrant case shall apply 41 M 727 11 C 91 39 M 503 63 I C 619 22 B 711 (713)

4 The right to an order of acquittal accrues to an accused upon two conditions and is dependant firstl on the absence of the complainant and secondly on the court not adjourning the case 1925 C 102—87 I C 970 1923 C 725 77 I C 892

5 S 247 authorizes the court to adjourn the cas to enable the complainant to appear but cannot dispense with his presence except when he s a public servant 1926 L 626=96 I C 878=27 Cr L J 1072

6 If the case is not tal en up accused cannot claim to be acquitted 1926 C 102

7 Accused is not acquitted automaticall for absence of complainant 1923 C 725

8 A court which has acted under S 247 has no power *si o motu* to restore the case and cancel the acquittal 1903 M W N 190 1927 M 473 100 I C 238 73 I C 240

9 Dismissal of complaint has the effect of acquittal of an accused who is not summoned 34 M 253 45 A 56 *Cont* 40 M 976 95 I C 388 74 I C 1054

10 It is immaterial whether summons was ser ed on the accused or not 4 Pat L T 15

11 Absence of accused is immaterial for applying S 247 53 B 693 34 M 253

12 When case is called on wrong date and complaint is dismissed for absence of complainant the magistrate can proceed with the case on the date fixed 18 C W N 1188 42 C 365 1927 C 702

13 Where complainant is absent the magistrate may acqu t accused or adjourn the case 27 C W N 199

14 S 247 does not apply to proceeding under S 107 Cr P C 101 I C 607

15 The complaint cannot be revived after acquittal 1924 C 96 99 I C 326

16 Accused were summoned under S 420 I P C and acquitted for absence of complainant The trial of the accus d under S 379 on the same facts and reviving of the complaint b District Magistrate is illegal 1923 C 407—25 Cr L J 149

—6 Revision

1 High Court only can set as de order under S 247 if the order is improper 1924 C 96=73 I C 040 1927 M 172—99 I C 325 52 M 605

2 District Magistrate cannot set as de order under S 247 as it is one of acquittal 77 I C 295—1925 Oudh 44—25 Cr L J 359

3 High Court will not interfere in revision when there is no error of law on the face of record 100 I C 238 38 M 1078 1925 M 1009 1927 M 473

4 High Court will not ordinaril interfere in re ision in the case of acquittals but this rule does not properly apply to one under S 247 1924 Oudh 64—25 Cr L J 794

B in Warrent case — S 259 Cr P C

—1 After charge

1 After framing of charge in non compoundable warrant case the position of com

Absence of Comlainant.—(*contd.*)

plainant is reduced to that of a witness and he cannot be burdened with costs for adjournment. 1924 L. 627=76 I. C. 23=25 Cr. L. J. 87. §

2. There can be no discharge under S 259 after a charge has been framed. 1925 Oudh 314=84 I. C. 944, 1925 Oudh 306=84 I. C. 328, 1930 A. 795=1930 Cr. C. 1017,1933 Pesh. 78, 1933 C. 358

—2. Delay to appear.

Where a case was fixed at 7 A. M. after the prosecution has been closed and the pleader for the complainant was present but the complainant arrived late, held that the order of dismissing the complaint was improper. 1927 M. 139=98 I. C. 607=27 Cr. L. J. 1391.

—3. Fresh complaint.

1. A complaint dismissed under S. 259 can be revived on a fresh complaint as it is not an acquittal 87 I C 928=1925 Nag. 432, 28 M. 310, 29 M. 126, 28 C. 652, 1929 B 134, 29 C 726.

2. In a case under Ss 406-471, I. P. C, the Magistrate cannot discharge the accused under S. 259, Cr P. C. as the offence under S. 471 is triable by Court of Sessions. Fresh complaint after the dismissal of the first is not competent. 1935 B. 76=154 I. C. 325=59 B 171.

3. If accused is discharged on account of the absence of complaint, fresh complaint on same facts is not barred. 1934 Nag. 215, 23 C. 983, 24 C. 286, 22 A. 106, 28 C. 652, 29 C. 726, 28 M. 310, 29 M. 126.

—4. Presence of pleader.

When the pleader of the complainant is present, the complaint cannot be dismissed if the complainant is absent. 1923 C. 403.

—5. Procedure

1. Where a person is prosecuted by police for a non compoundable warrant case, the case should not be dismissed for want of prosecution. 1927 Oudh 352 (1)=104 I. C. 256=28 Cr. L. J. 816

2. A magistrate must proceed with the trial of a non compoundable case after framing of charge, regardless of the fact whether the complainant does or does not attend. 1924 L. 627=76 I. C. 23=25 Cr. L. J 87.

3. In non compoundable case it is only the Public Prosecutor who can withdraw the prosecution. 64 I. C. 273=22 Cr. L. J. 753.

4. If after discharge under S. 259, court takes up the complaint, the trial should be *de novo*. But if the court omitted to take down sworn statements and the accused is not prejudiced, the trial is not illegal. 1929 M. 260=115 I. C. 64=30 Cr. L. J. 403.

5. When a summons case and a warrant case are tried together, the procedure should be of warrant case and if the complainant is absent the order of discharge does not amount to acquittal even in respect of offence triable as summons case. 41 M. 727 following 22 B 711

6. When complainant is absent, a magistrate has no authority to strike off a case. The order of striking off is not tentamount to discharge under S. 259. 23 I. C. 182 =15 Cr L. J. 230

7. Where complainant was prevented by floods from appearing, the accused should not be discharged The court in exercising discretion under S. 259, should see whether there is a *prima facie* case against the accused. The complainant's absence raises presumption that he does not wish to proceed with the prosecution. 12 Cr. L. J. 184=9 I. C. 1007.

—6. Revision.

If the magistrate refuses to dismiss a complaint under S. 259, the order cannot be interfered with in revision. 1933 Oudh 430=35 Cr. L. J. 121.

Absence of husband for seven years.—*See* Bigamy.

ABSENCE OF LEGAL ADVICE.—*See* Transfer (Grounds).—1. Remand.

ABUSE.

—1. Prosecution of exchanging.

No prosecution should be lodged in cases of exchange of abuse in a public street. 1926 L. 412=94 I. C. 888.

—2. Provocation resulting in murder.—*See* Murder.—77.

—3. Provoking breach of peace.—S. 504, I. P. C. *See* Insult to provoke breach of peace.—1.

—4. When covered by S. 95, I. P. C.—*See* Slight harm.—1.

—5. When defamatory. *See* Defamation.—27.

ABUSE OF PROCESS.

When an adversary through malicious and unfounded use of some regular proceeding obtains advantage over his opponents, it is called abuse of process of court. *Wharton's Law Lexion, P. 16*

ACCEPTING UNSTAMPED INSTRUMENTS.

1. Accepting an unstamped receipt is no offence. 8 A. 18, 7 B. 82, 11 P. R. 1891.
2. Accepting an unstamped pronote is no offence 7 M. 71, 20 A. 440, 12 P. R. 1895.

ACCESSORY AFTER THE FACT.—*See* Abetment.—5.

ACCESSORY BEFORE THE FACT.—

Accessory before the fact is one who being absent at the time of commission of the felony, yet procures counsels or commands another to commit the crime. *Wharton's Law Lexicon, P. 17.*

ACCESSIBLE PLACE.—*See* Discovery.—1.

ACCIDENT.—S. 80, I. P. C. See Motor Vehicles Act, 1914—Death by negligence.—1.

1. Accused must prove circumstances to bring an act within the purview of S. 80. 19 C. W. N. 1043=31 I C. 164, 49 C. 732, 59 I. C. 49.
2. A person trying to hit another who was carrying a child, hit the child, cannot plead accident as he was not doing a lawful act. 1924 Oudh 228=24 Cr. L. J. 789.
3. A person who had gone to shoot pigs, missed the boar and the bullet hit his companion. Held, it was neither a rash nor negligent act but accident. 1927 L. 880=29 P. L. R. 45, 1931 L. 54=130 I. C. 654=32 Cr. L. J. 587.
4. The prisoner went out to shoot along with the deceased in the jungle. They agreed to take up certain position and lie in wait for game, which was done. After a while the accused heard a bustle and believing it was porcupine, he fired in that direction but hit the deceased. The accused was shooting with an unlicensed gun but it was held that the case was one of pure accident. 3 Bom. L. R. 678, 25 B. 680, 1926 B. 134
5. The word accident is not defined in Indian Motor Vehicles Act. Ordinarily it means an event which takes place without one's foresight or expectation, *e. g.* falling of motor car in the channel, bursting of tube or the puncture of tyre. But law does not recognize them The accidents which come within the purview of the Act are those which result in some injury, annoyance or danger to public, 1928 M. 364=51 M. 504
6. Voluntary intoxication short of a proved incapacity to form intent necessary to constitute the crime cannot be pleaded when the accused gave an iron shod *dang* below on the head of deceased. 1932 L 283 (1)=33 Cr. L. J. 378.
7. Accident is an extraordinary incident, something not expected. *Wharton's Law Lexicon P. 18.*

—ACCOMPLICE.—Ss. 114 (*b*) 133, Evidence Act —*See* Approver.

—1. Accomplice.—Who is.

1. Witnesses who had witnessed the crime and assisted in concealing evidence or connived at and gave no information to police or any other person are no better

Accomplice —(contd.)

than accomplice 1923 L 540=120 I. C 190=31 Cr. L. J. 50

2 Where a woman willingly accompanied her lover to a hut where he went in and murdered her husband and she returned to the village and gave no information to any one till next morning, held she is accomplice of the murderer. 6 L 183=1925 L 432=88 I. C 854=26 Cr L J. 1238

3 Accomplice is a guilty associate in crime. 27 M 271. *Wharton's Law Lexicon P. 19.*

4 A person offering bribe to a police officer is an accomplice 14 B. 331, 14 B. 115, 26 B 193, 9 P R 1917, 114 I. C. 457=1929 N 215 25 M. 1, 27 M. 271.

5. Persons present at bribe giving transaction are not accomplices, if they did not take any part 25 M 1, 33 C 649, 50 I C. 1918, 27 C 144.

6 Persons supplying marked money for detection of crime are not accomplices but only detective or spy, 1936 N 245, 19 B. 363, 27 M 271, 38 C. 96, 15 B. 661, 35 B 401, 44 A 225, 1923 L 366, 52 C 721, 28 C. 709, 33 C. 1353, 135 P. L. R. 1904, 131 P L R 1905

7 Persons bribing for obtaining release of wrongfully confined persons are not accomplices, specially when money was not given voluntarily. 27 C. 925.

8. A person helping accused in disposing of dead body after murder is not accomplice 1923 L 345=73 I. C 506=24 Cr. L J. 618.

9 A person who has knowledge of the commission of the offence but keeps quiet for some days is no better than accomplice 96 I. C. 867=38 C. W. N. 816=27 Cr. L. J 1011, 21 C 328, 24 W R (Cr) 55

10. Where a witness is found, from his own testimony, to be privy to the crime, his evidence is no better than that of an accomplice 1925 L 253=6 L. L. J. 529.

11 A person who is aware of the intention of certain people to commit murder and does not disclose it to anybody is a consenting party to the crime and an accomplice 20 P R 1919 Cr =20 Cr L J 191=49 I C 607.

12 A person who by threats of death is induced to do an act in order to facilitate the commission of murder cannot be protected by S 94, I. P C., and is an accomplice. 19 I C 207=14 Cr L J 207=1912 M W N 1108.

13 After the murder was committed, one of the inmates of the house removed the blood stains on the ground under compulsion and threat of murder. Held, she was not accomplice 33 P L R 269

14 Where a person came to know of the conspiracy to murder another but never told the latter and it was shown that he agreed to the proposal of the conspirators himself being actuated by the sordid motives, held, he was an accomplice 8 O W N 1240, 1932 Oudh 11=33 Cr. L J 287=136 I. C. 321=1932 Cr C. 43

15 A person knowingly aiding in disposal of stolen property is accomplice 1934 M. 721.

16 A person who is convicted and sentenced continues to be accomplice and his evidence from the witness box is governed by the same principle. 1933 B. 24=34 Cr L J. 136

17. If a person has knowledge that crime is to be committed he is not accomplice, unless he participates in the crime 1936 C 101=37 Cr. L J. 445.

18 A person who sees a murder committed but gives no information of the fact is no better than accomplice. 1923 L 391=25 Cr. L. J 264, *cont.* 1934 Oudh 315, 1935 Oudh 1. His evidence requires careful consideration. 1934 C. 678.

19. If woman is cognizant of the intention of her paramour to kill her husband and does not disclose it to her husband, she is no better than an accomplice. 1936 L 731=164 I C. 700

—2 **Accomplice and informer or spy—Distinction** —*See* Spy.

1. If at the time when a witness joined the conspiracy, he had no intention of bringing his associates to book but his object was to partake in the commission

of crime, he is not an informer but an accomplice, although he later on carried information to police But if his sole object was detection of crime, he is an informer 1928 L 647=110 I C 676=29 Cr L J 740=29 P L R 703, 1928 L 193=29 Cr L J 577

2 A person was present when plans for dacoity were hatched and agreed to go to the place of meeting armed with revolver but remained at home for six hours and did not inform anybody He then went to spot and was sent back to fetch food for offenders, when he disclosed the whole affair Held he was accomplice 9 L 550=1928 L 193=109 I C 593=29 Cr L J 577

3 Where certain persons associated with the accused without any criminal intention with the sole object of entrapping the accused in order to detect an offence, held, that they were mere spies or detectives 1931 Oudh 172=132 I C 234=32 Cr L J 860 38 C 96 9 L 550=1928 L 193 1928 L 647 19 B 363

4 The rule requiring corroboration does not apply to informers 38 C 96 1931 Oudh *172* but *see 19 B 363 1929 L 436* and *1925 Oudh 158*

3 Conviction on uncorroborated testimony of —

1 In law uncorroborated testimony of an accomplice is sufficient to uphold a conviction provided there is reason to suppose that it is true 1930 M W N 169, 3 Rang 11, 69 I C 257, 11 P L T 545 4 M H C R App 7

2 A conviction can be based upon the uncorroborated testimony of an accomplice but it *is the usual practice of the Court to require corroboration 107 I C 97=* 29 Cr L J 709, 73 I C 963

3 There is a consensus of opinion that a conviction on the uncorroborated evidence of an accomplice is rarely justified 1930 Oudh 455 1927 Oudh 369=106 I C 721, 1935 A 477

4 A conviction can be based on the uncorroborated testimony of an accomplice 47 A 39 1922 L 1, 1932 B 286 1933 Nag 352=35 Cr L J 213, 1932 Oudh 317, *cont* 1933 L 838 1931 Rang 235

5 A conviction on the uncorroborated evidence of an accomplice is to be regarded as exception 77 I C 429 31 P W R 1916 Cr

6 If Jury is not warned of danger in accepting uncorroborated evidence of accomplice the conviction based upon it must be set aside 8 Pat 235 48 A 409

7 Judge may warn the Jury about the danger of convicting on uncorroborated *testimony but should point out that it is within their legal province to convict upon* such unconfirmed evidence 51 C 160=1924 C 701=25 Cr L J 1000

8 Conviction on uncorroborated evidence when approver is a scoundrel is not *warranted 77 I C 429=25 Cr L J 381*

9 A conviction based on uncorroborated testimony of any approver is illegal 52 P L R 1918=19 Cr L J 439=9 P W R 1918 Cr

10 *That there is some probability of truth in the statement of approver is not* sufficient unless the corroboratory evidence such as serves to identify each of the accused 56 B 172=1932 Bom 286=137 I C 174=33 Cr L J 396=34 B L R 303

11 Conviction on unconvincing and uncorroborated testimony of approver is not safe 1934 L 21

12 Where each of the accused exculpates himself and fastens guilt on another, the evidence of accessory must be corroborated 1936 *P C 242*

13 The statement of approver is always to be suspected and it needs corroboration not only of a general kind but of a kind that will implicate the person accused in a *crime* 1935 A 132=154 I C 1015 *King v Baskerville* (1916) *2 K B 658=* 115 L T 453 Rel on

14 Conviction based on uncorroborated testimony of approver is not absolutely illegal 17 P R 1915 Cr 1927 L 561=28 Cr L J 625 1929 L 850=123 I C 518 1932 L 204=136 I C 19=33 Cr L J 242 C (Disting in 1935 L 125=15 L 673=155 I C 197), 1935 C 513=36 Cr L J 1115=157 I C 387, 1931 Rang 235=9 Rang 404 Foll, 1934 C 678=35 Cr L. J 1357 Ref

Accomplice—(*contd.*)

4. Corroboration—extent and nature.

1. Approver's story should be corroborated not only as regards the facts of the case but also as regards the identity of each accused. 1930 N 97=120 I. C. 721=31 Cr. L. J. 153, 1928 L. 30=102 I. C. 500=28 Cr. L. J. 564, 1927 L. 10=98 I. C. 190, 67 I. C. 343, 1930 C. 430.

2. Corroboration may be of circumstantial evidence. 118 I. C. 423, 1930 Oudh 353, 106 I. C. 721, 1931 A. 31=55 A. 91—34 Cr. L. J. 489, 1935 A. 86=152 I. C. 934 =36 Cr. L. J. 205, (1916) 2 K. B. 6. But must be independent. 1935 L. 125= 15 L. 673. (*Case Law discussed.*)

3. It is very difficult to vary the standard of corroborative proof required in the case of various approvers. 102 I. C. 500=1928 L. 30=28 Cr. L. J. 564.

4. Corroboration is required with respect to each individual accused. 1928 Pat. 630 =113 I. C. 329=30 Cr. L. J. 137, 1921 L. 215, 120 I. C. 721, 1923 L. 385=76 I. C. 716.

5. Corroborative evidence need not be sufficient in itself to base a conviction on. 1927 L. 581=103 I. C. 49=28 Cr. L. J. 625.

6. Amount of corroboration of an approver's evidence must depend upon the view which the Court takes of the approver's character or of his general demeanour in the witness box 5 Pat 63=1926 Pat. 232=93 I. C. 884=27 Cr. L. J. 484.

7. Corroboration must be independent of the accomplice or of the co confessing accused 25 Cr. L. J. 1067=1925 Nag. 78, 1935 C. 513=36 Cr. L. J. 1115.

8. Direction to Jury that if the approver was corroborated on some points, they might believe him on other points on which he is not corroborated is not misdirection. 52 C. 595=1925 C. 872=26 Cr. L. J. 1037.

9. Defence being false is no corroboration of approver. 3 L. 144=23 Cr. L. J. 513.

10. Corroboration must be by independent evidence. 1930 Oudh 353.

11. It is not necessary that an accomplice should be corroborated in every material particular. 56 C. 160, 52 C. 595, 1926 A. 70=96 I. C. 127.

12. The extent of corroboration varies with circumstances of each case, including the character and antecedents of the approver or the degree of suspicion attached to his evidence. 1929 L 850=1929 Cr. C. 626.

13. One accomplice's evidence is not corroboration of the testimony of another accomplice. 67 I. C. 343, 47 A. 39, 3 L. 144, 1927 Oudh 369 (2), 2 P. R. 1920, Cr. 20 P. R. 1919 Cr., 8 A. 306, 14 B. 331, 1923 L. 76=68 I.C. 821, 49 I. C. 607, 14 P. R. 1894 Cr., 1929 L. 850, 1936 P. C. 242. But *see* 1935 C. 513=36 Cr. L. J. 1115.

14. One approver can corroborate the other but the corroborative value will be diminished if they had ample opportunity of consultation. 1923 L. 666.

15. Where there is nothing outside the confession of the co accused, the accused must be acquitted. 48 A. 409=1926 A. 377=95 I. C. 74=27 Cr. L. J. 746.

16. Where approver's story is not sufficiently corroborated by the evidence as to recovery of stolen property incapable of identification, the accused should not be convicted. 1925 L. 44=84 I. C. 1052=6 L. L. J. 280=26 Cr. L. J. 412.

17. The testimony of accomplices, who are victimised by police officer into offering them illegal gratification or have not willingly done so, require a much slighter degree of corroboration. 53 B. 479=1929 B. 296=31 Cr. L. J. 65.

18. Although confession of a co accused may be taken into consideration against another under S. 30, Evidence Act, it would be unsafe, if not illegal, to rely on it without further corroboration 1929 L 338=115 I. C. 1, 1929 M. 285=118 I. C. 512.

19. Where material discrepancies occur between the statements of corroborating witnesses before the police and the Court, there is no corroboration. 36 P. W. R. 1910 Cr.

Accomplice—(*contd*)

20 Where the statement of deceased accomplice is not made in the presence of accused little weight is to be attached to it as corroborative evidence 9 I C 978

21 The evidence of corroboration must be independent testimony which connects the accused with the crime The evidence may be circumstantial 1935 A 477=154 I C 812 1933 A 31—55 A 91=34 Cr L J 489 *Rex v Baskerville* (1916) 2 K B 658=115 L T 453 1935 A 86=152 I C 934=36 Cr L J 205 1935 L 125

22 Corroboration need not be in all details Corroboration in some material particulars, satisfying court of the truth of accomplice s story implicating accused in crime is sufficient It may be circumstantial but independent 1935 L 125=15 L 673 =155 I C 197 (*Case Law discussed*)

23 Even a slight corroboration is sufficient if the court is satisfied about the genuineness of the accomplice s story 14 L 111=1932 L 621=33 Cr L J 916

24 Corroboration of approver s evidence is not material when there is independant evidence of conspiracy 1935 C 515=35 Cr L J 1115=157 I C 387, 9 Rang 404 Foll

25 Accused pointed out spot where dead body was buried Corroboration of approver s evidence was regarding motive only The offence under S 201 and not S 302 is made out 1934 L 23 (2)—147 I C 215

26 Evidence of accomplice cannot be corroborated by another accomplice 1934 M 248=35 Cr L J 1040

27 Corroboration regarding *corpus delicti* and identity of accused is necessary 1933 A 31—55 A 91

—5 **Corroboration** —What is

1 Production of stolen property by accused is a material corroboration of the evidence of an approver 76 I C 698 82 I C 707—1924 L 727=25 Cr L J 1347

2 Where several persons make confession the fact that particular person is named by more than one is not sufficient corroboration 65 I C 622=23 Cr L J 158

3 That the accused had a very strong motive to murder is not a sufficient corroboration 1921 Pat 406 48 A 409=1926 A 377

4 Where an approver stated that there was a murderous conspiracy to which accused was a party and was supported by the evidence of his obtaining murderous weapons held it is sufficient corroboration 1924 L 357=69 I C 462

5 Identification by three persons and recovery of stolen property with the accused is sufficient corroboration 25 Cr L J 785=1924 Oudh 314

6 Blood stains on the accused s shirt is not sufficient corroboration even if there is a motive to murder 1925 L 526=86 I C 811=26 Cr L J 875

7 Mere fact that accused were seen with the approver a few days before dacoity is not a material corroboration 1924 L 727=82 I C 707, 1925 L 426 2 P W R 1916 Cr 86 I C 69

8 The evidence of a witness who supports approver is a corroboration even if the evidence was known to the police before the approver was examined by them 1926 C 374=88 I C 458

9 Verification of approver s confession is a corroboration of his evidence in Court 52 C 595=1925 C 872=87 I C 925—26 Cr L J 1037=42 Cr L J 501

10 Corroboration may be of circumstantial evidence 106 I C 721=1927 Oudh 369

11 Where the corroborative evidence consisted of a witness who said he identified the dacoits but omitted to name them in the first information report held it is no corroboration 114 I C 623 6 A 306 1925 Nag 76 1923 Nag 172

12 Where the evidence of approver was fully corroborated with regard to theft and it was proved that persons committing theft were the same who committed murder held it is sufficient corroboration even if he exculpates himself from murder 1930 Pat 164—127 I C 566=32 Cr L J 5=1930 Cr C 250

13 The evidence of an accused person s conduct may be used as corroboration of an approver s story 10 L 265=1928 L 681=29 Cr L J 851

Accomplice—(contd.)

14. The production of stolen property by the accused even from a place which is not in his possession may be accepted as material corroboration. 111 I. C. 447, 1923 L. 389=76 I. C. 819.

15. Where the only corroborative evidence is that of the approver's son who parrot-like repeats what he is tutored to say is not sufficient. 1929 L. 587=122 I. C. 91.

16. Confession of an accused is no corroboration of approver's testimony. 1928 C. 745=116 I. C. 174=30 Cr. L. J. 586.

17. Production of a spear from a field by the approver and blood stains on accused are not sufficient corroboration. 1927 L. 78=99 I. C. 929=88 Cr. L. J. 193.

18. The evidence that accused was seen talking to the deceased on the evening on which he disappeared is not sufficient corroboration. 1925 L. 600=88 I. C. 453 =7 L. L. J. 528.

19. Stolen property being found in the possession of accused is a sufficient corroboration. 26 Cr. L. J. 693=1925 L. 426=86 I. C. 69, 26 P. W. R. 1915 Cr.

20. Where some common things were found at the search of accused's house and some other things not mentioned in F. I. R. along with a gun or sword, held it was not sufficient corroboration. 1923 L. 385=76 I. C. 716=25 Cr. L. J. 252.

21. Discovery of blood in convict's house and on his finger nails and his suspicious conduct on the day of murder furnish an adequate corroboration. 1921 L. 392=4 L. L. J. 405

22. The merits of the case, to decide which in favour of the bribe giver a Judge accepts are sufficient corroboration of the former, who is really an accomplice. 3 P. W. R. 1919 Cr.

23. Being found in the company of the approver shortly after the offence is very strong indication of the fellowship of crime. 21 P. W. R. 1917 Cr.=18 Cr. L. J. 852=41 I. C. 820.

24. Previous statement of an accomplice may mean corroboration. 2 P. R. 1917 Cr.=18 Cr. L. J. 29=36 I C. 861, 35 M. 247, 26 B. 193. *Cont.* 35 M. 307 F. B.

25. The confession of one of the prisoners cannot be used to corroborate the evidence of an accomplice against the others. 11 B. H. C. R. 196.

26. The fact that accused tells lies is no corroboration of approver's story. 1935 A. 162=1935 Cr. C. 214.

27. An identification of accused by witness may be sufficient corroboration of approver's evidence for convicting him, but if the identification is not satisfactory such corroboration is not sufficient. 1935 A. 162=1935 Cr. C. 214.

28. Evidence of accomplice can be used for corroborating the approver. 1935 Rang. 491. 1931 Rang. 235 Rel. on.

29. Recovery of ordinary clothes not bearing any special mark of identification is no corroboration. 1934 L. 525.

30. Recovery of identifiable ornament is sufficient corroboration. 1934 L. 525.

6. Discrepancy between evidence of approver and of witness.

When there is a serious discrepancy between the evidence of approver and the witnesses it cannot be acted upon either as corroboration or by itself. 1935 A. 162.

7. Evidence.—Value of—.

1. Accused sent up for trial as accomplice, cannot be examined as witness. 12 P. R. 1902 Cr., 21 P. R. 1904 Cr.

2. A discharged accused is a competent witness. 16 B. 661.

3. Evidence of accomplice is inadmissible against co-accused which is given as accused person 38 P. R. 1867 Cr., 12 P. R. 1902.

4. Evidence of an accomplice requires corroboration. 1930 A. 29=120 I. C. 257, 1930 A. 740, 1929 L. 850, 1921, P. 406, 1920 P. C. 15.

5 Confession implicating co accused requires corroboration if co accused is to be convicted on it 1930 Pat. 335=123 I. C. 393=31 Cr. L J. 492, 38 C. 559, 15 B.

Accomplice—(*contd.*)

66, 38 B. 156. 1924 O. 65.

6. S. 114, ill. (*b*), provides that a Court may presume that the evidence of an accomplice is unworthy of credit unless corroborated. "May" is not "must" and no Court can make it must. 1929 C. 822=1929 Cr. C. 669.

7. The evidence of an accomplice must be received with suspicion, although he allows himself to be convicted on it. 1928 C. 233.

8. The rule of caution that an accomplice's testimony should be corroborated is now regarded as a rule of law. 1927 L. 581=28 Cr. L. J. 625.

9. Court should exercise judicial discretion in considering whether an accamplice is or is not worthy of credit. 8 Pat. 235=1928 Pat. 630=9 P. L. T. 672=113 I. C. 329.

10. The evidence of an approver is open to grave suspicion. 52 I. C. 49.

11. It is unsafe to act on the uncorroborated evidence of an accomplice even though he is a mere relative of the accused. 19 P. L. R. 1911.

12. Provisions of S. 133 and S. 114 (*b*) amount to a direction to all Judges and magistrates that a fact cannot be held proved within the meaning of S. 3 if the witness is unreliable. All accomplices are not unreliable. 14 Cr. L. J. 262=19 I. C. 534.

13. An approver is a man of the lowest character who wants to save his skin by throwing his friends and associates to wolves His evidence must be received with caution. He can easily substitute an innocent person for the real offender. 1931 L. 408=132 I. C. 185=32 Cr. L. J. 818

14. Where in the case of conspiracy to commit an offence under U. P. Excise Act, the accomplice was first put on trial and later on examined against the principal accused, held, that his statement is not inadmissible in evidence 1932 A. 73=137 I C. 73=33 Cr. L. J. 373.

15. Approver's statement is subject to suspicion but of great value in certain cases. 1935 A. 477.

16. If there is any fear in the mind of approver that failure to establish the case for prosecution will result in his own prosecution, it is not likely to lead to truthful evidence being given. 1935 C 473=157 I. C 840=36 Cr. L. J. 1248.

17. Wife was consenting party to her husband's murder. Her evidence is that of accomplice and requires corroboration. 1934 L. 171, 20 P. R. 1919 Rel. on.

18. If approver was examined last of all and the Counsel was unable to question corroborative witnesses properly, the opinion of assessor losses much value. 1934 L. 171.

19. If the appover is falsely implicating two persons and is adding accusation against others which he never made in his first statement, the effect of his testimony is weakened. 1933 A. 31=55 A. 91

20. Accomplice is unworthy of credit
    (*a*) because he is likely to swear falsely in order to shift the guilt from himself;
    (*b*) because, as participator in the crime, he is an immoral person;
    (*c*) because he gives his evidence under the promise of pardon or in expectation of implied pardon. This hope would lead him to favour the prosecution. 14 B. 115.

21. Confession of an accomplice to Police, dying before trial, criminating himself and others is relevant under S. 32 (3). 1926 L 54=26 Cr. L. J. 1308.

8. Not given pardon under S. 337, Cr. P. C.

An accomplice should be granted pardon or the case should be withdrawn against him under S. 494, Cr. P. C. Police have no right not to charge persons against whom there is evidence because they require him as a witness. 1935 B. 186=37 Bom. L. R. 179.

9. Retracted confession.—*See* Confession—9.

1. A retracted confession is not alone sufficient to justify a conviction of co-accused, although admissible in evidence against him. 114 I. C. 771=30 Cr. L. J. 360.

Accomplice—(*contd*)

2. A retracted confession is not the testimony of an accomplice within the meaning of S. 133. Very fullest corroboration is necessary, far more than would be demanded for the sworn testimony of an accomplice. 1925 C. 406=84 I. C. 712=26 Cr. L. J. 360, 28 C. 689, 38 C. 559.

3. A retracted statement of an approver is admissible against an accused person. 61 I. C. 528=22 Cr. L. J. 400.

4. As a matter of prudence no conviction should be based upon a retracted confession. 22 Cr. L. J. 200.

5 If an accused is tendered pardon and it is subsequently withdrawn, such accused should not be jointly tried with other accused 1935 Oudh 226=35 Cr. L. J. 889

ACCOUNT. *See* Breach of Trust.—falsification of account.

ACCOUNTANT.—*See* Breach of trust—8.

ACCUSATION.

Accusation is the formal charging of a man with any crime *Wharton's Law Lexicon P. 21.*

ACCUSED.—

—1. Absence, absconding, admission, conduct identification, etc. etc., of—.
See underthese Headings.

—2. Association with co-accused

1 Mere association of an accused with his co accused is not sufficient to have conviction when it is found that he was not aware exactly about their activities, though his association raises a strong suspicion of his guilt 99 I. C. 1009=27 P L R 441=28 Cr L J 209

2 No inference of complicity in crime can be drawn from the fact of friendship between accused who are co villagers 1922 Pat 88

3 Where persons from long distances are found in the company of dacoits who were making preparations for dacoity and are unable to account for their presence, the inference that they belonged to the party is inevitable 1933 Oudh 53=34 Cr L J 101

4 Casual association with burglars is no proof of association in burglary 1934 Sind 159

3 Definition of—S 4 Cr P C

1 A person over whom magistrate exercises jurisdiction is an accused 23 C. 493, 16 B 661, 15 P R 1900 24 P R 1903 21 P R 1904, 42 P R 1905=131 P L R 1905

2 A person proceeded against under S 110, Cr P C is not an accused within the meaning of S 437, Cr P C 27 C 662, 15 133 *contra* 21 A 107, 24 A 148

3 It includes persons required to furnish security for good behaviour. 24 P. R 1903, 33 P R 1905 *See* 6 P R 1911, 5 P R 1914, 42 P R 1905

4 A person charged with an infringement of the law for which he is liable to be punished is an accused 41 C L J 357, 41 C L J 479

5 Parties to proceedings under chapters XII and XIII, Cr P C are not accused 41 C L J 357, 30 C 958, 39 C L J 75

6 A person proceeded against under S 488 Cr P C is not an accused person 16 C 781, 5 P R 1914, 76 I C 868, 1923 O 161=861 I C 562, 18 B 468, 19 P. R. 1903

7 An informer is not an accused person 38 P R 1887, 21 P R 1904, 57 I. C. 167 =1 L 102 *See* 9 P R 1906, 12 P R 1902

8 A person against whom no process is issued is not an accused 32 C. 1085

9 Approver to whom pardon is tendered without lawful authority whether an accused person *See* 38 P R 1887 Cr, 21 P R 1904, 12 P R 1902

4 Innocence of—*See* Presumption of innocence

Accused—(*contd*)

5 **Interview with** *See* Interview

6 **Liability of** *See* Explanation S 34 I P C

Accused is not liable to account for his whereabouts at the time of occurrence 10 C 970

7. **Marks of injuries on** —*See* Marks of injury

8 **Not taking part in the trial**

1 If accused is not taking part in the trial he cannot say the court omitted to follow such and such procedure unless he can produce clear evidence about such omission 129 I C 166=1931 Oudh 73=32 Cr L J 330=1931 Cr C 129

2 If the accused who was not taking part in the proceeding afterwards asked court to recall witnesses for cross examination but refused to cross examine them as he could not get copies of statements and cited them as defence witnesses The court cannot refuse to recall them 1931 L 186=134 I C 580—32 Cr L J 1202

9 **Right of**

1 To be defended by pleader S 340 Cr P C 15 P R 1900 Cr 47 A 147

2 To be heard by counsel or agent in appeal 31 P R 1870 Cr 59 P L R 1900

3 To put forward any defence open to him technical or otherwise and to have the court s judgment on it 18 C W N 498 41 C 350

4 To have prosecution witnesses cross examined after charge 11 P R 1914 Cr 72 I C 371 *See* Cross examination

5 To cross examine prosecution witness called as defence witness 26 C 594 65 I C 768 47 A 147 1925 P 690=92 I C 865

6 To produce defence after charge in warrant case 26 P R 1884 Cr 15 P R 1887 Cr *See* Defence witnesses

7 To be acquitted in summons cases for absence of the complainant S 247 Cr P C 7 M 213 49 M 883 *See* Presence of complainant

8 To have the benefit of doubt 5 L L J 317 33 P W R 1911 Cr 1922 L 26 46 I C 145 *See* Benefit of doubt

9 To have copies of statements of witnesses made before police 54 C 307 30 M 466 *See* Statement to police

10 To cross examine witnesses for the co accused making statements against him 21 C 401 *See* Cross examination

11 To have copies of all documents which he asks 101 I C 495=1927 M 512—52 M L J 601=25 M L W 599=28 Cr L J 463=101 I C 495—30 M 466

12 To have the case tried by another magistrate if the magistrate takes cognizance of offence under S 190 (1) (C) 92 I C 741 1926 L 627—96 I C 969

13 Omission to inform the accused of his right under S 191 Cr P C invalidates the conviction 13 P R 1898 Cr 26 A 212

14 To demand a *de novo* trial on the transfer of magistrate 3 L R 1903 Cr 2 L 115 *See* De novo trial

15 To have the case stayed in order to apply for transfer 29 C 211 35 M 701

16 The court cannot make an accused confess the guilt before any evidence is recorded 2 C W N 702 45 C 557 45 M 230 35 M 397 4 Pat 327 20 P R 1905

17 Accused cannot be cross examined 10 C 140

18 Accused not to be asked questions with the object of trapping him into some admission 2 L 130 13 A 35 9 M + 1 C 64 6 C 99 1925 C 587, 51 C 442 *See* Examination of accused

19 Accused cannot be examined for filling up gaps in prosecution evidence 26 C 49 27 M 238 10 M 121 10 M 295 91 I C 4– 61 I C 785 1925 N 403=91 I C 242 36 M 457 *See* Examination of accused

20 Accused cannot be examined as witness 12 P R 1902, 33 C 1353 25 M 61,

Accused—(*concld.*)

45 C. 720, 1923 A. 91, 3 R. 11, 1926 N. 426=95 I. C. 471. Except when the prosecution is withdrawn under S. 494, Cr. P. C. 25 B. 422.

21. It is incumbent on the magistrate to examine the accused to explain away evidence against him. S. 342, Cr. P. C. 10 C. 140, 5 A. 253, 30 B. 421. 17 C. 930, 23 C 252. *See* Examination of accused.

22. When accused is undefended, magistrate should cross examine the witnesses. 7 A. 160 *See* Cross-examination.

23. No oath can be administered to accused 45 C. 720, 10 B. 190.

24. Accused is entitled to a copy of memorandum of local inspection free of cost. S 539 (B) Cr. P. C. *See* Local Inspection.

25. Accused is entitled to adjournment if case is taken up after court hours. 1928 P. 277=107 I. C. 827=9 P. L. T. 344=29 Cr. L. J. 299.

26. Accused has a right to legal advice even in police investigation and to interview his counsel. 12 L. 211=1932 L 13. *See* Remand.

27. Accused is entitled to the supply of food and clothing from his house during police investigation and trial. 12 L. 211=1932 L. 13=32 Cr. L. J.1022.

28. Accused has no right to argue a bail application in person, although under special circumstances the permission can be given. 1931 A. 356=32 Cr. L. J. 1271.

29. It is the right of accused to insist that he should be tried by settled procedure. 1934 A. 908 (920).

10. Statement of. *See* Examination of accused—28.

1. Where the statement of accused are not recorded individually but collectively proceedings are vitiated. 6 L. 554=1926 L. 155. 1924 L. 84 Ref.

2. Accused need not speak the truth and cannot be pinned down to any statement. 1924 L. 733=81 I. C. 717=6 L L. J. 575=25 Cr. L. J. 1005.

3. Contradictory statement of accused may be taken into consideration against him. 45 A. 166=1923 A. 90=71 I C. 54=24 Cr. L. J. 6.

4. No inference of guilt can be necessarily drawn from the erroneous or a false statement made by the accused. 22 Cr. L. J. 595.

5. Evidence recorded after the statement of the accused without further explanation from him, cannot be taken into account. 1927 L. 916=29 Cr. L. J. 11.

6. Gaps in prosecution cannot be filled by the statement of accused. 9 Pat. 504=1930 Pat. 498=11 P. L. T. 706, 120 I. C. 95, 26 C. 49, 27 M. 238.

7. If accused makes a statement confessing his guilt, before any evidence is recorded, such a statement cannot be used against him. 45 C. 557, 45 M. 230, 35 M. 397, 4 Pat 536, 1928 L. 724=110 I. C. 329=29 Cr. L. J. 697.

8. If their is no convincing evidence, court cannot supplement the prosecution evidence by selecting some portions of his statement and rejecting the rest. 51 A. 313=1929 A. 1=26 A. L. J 1334=113 I. C. 213=30 Cr. L. J. 101.

9. If after the examination of accused, further witnesses for the prosecution are examined, the omission to further examine the accused vitiates the trial. 50 B. 34, 7 L. 564, 49 C. 1075.

11. Taking writing from—for comparison —S. 73 Evidence Act.

Presiding Judge can take writing from accused for the purpose of comparison. S. 73, Evideuce Act, applies to accused person. 1935 C. 308=1932 B. 406=56 B. 304=33 Cr. L. J. 666 and 1924 Rang. 115=26 Cr. L. J. 108 Rel. on. 54 C. 237=1927 C. 17=99 I C. 227 Ref.

12. Who is—

An accused person means a person over whom the magistrate or other court is exercising juridiction. 16 B. 661, 33 C. 1353, 1935 B. 186=37 D. L. R. 179.

ACONITE.—*See* Poison—1.

ABRASIONS.—*See* Wound—1—19.

ANONYMOUS LETTER—*See* Criminal intimidation—1.

ADVERTISING BY COUNSEL—*See* Legal Practitioners Act, S 13

ADMONITION—*See* First offender—1.

ANIMALS—*See* Identification of animal Mischief—24, biting by dog

ACQUAINTANCE—*See* Association

1. With co accused

No inference of complicity in crime can be drawn from the fact that accused are friends, when they are co-villagers 1922 Pat 88

—2 With Magistrate—*See* Transfer (Grounds)—3

ACQUITTAL:—

1 After withdrawal of case—*See* Withdrawal—1

2 Appeal against S 417, Cr. P C.

1. High Court cannot entertain appeal against acquittal except at the instance of Local Government 14 M 363, 85 I C 356, 22 C 164 19 P W R. 55, 3 B 150

2 Right to appeal cannot be taken away from the Government 43 P R 1917 Cr

3 Power to appeal should be sparingly used 21 B L R 1054, 81 I C 306, 26 B L R 113 32 I C 683

(*a*) When there has been miscarriage of justice 22 C 164, 1922 C 539 10 P R 1897 Cr 10 P R 1911 4 A 148 10 M 127

(*b*) Or gross error of judgment 7 P R 1904 25 P R 1918 1927 L 549=102 I C 492 29 P R 1885 21 A 122 29 P W R 1918 Cr 32 A 451, 45 A 250, 49 I C 604

(*c*) Or when it is highly probable that the appeal will end in conviction 12 P W R 1919 Cr 30 P W R 1918 Cr 29 P R 1885 Cr

4 A private person cannot present an appeal against acquittal nor apply in revision 42 M 109 7 C 447, 14 M 363 4 R 471 23 C 975 49 C 612, *Cont* 71 I C 602

5 District Magistrate or Sessions Judge can refer such case to the High Court 1932 L 163=72 I C 593 42 M 109

6 High Court will not interfere unless udgment is wrong or preverse and without jurisdiction and based on obvious errors in procedure 67 I C 506=23 Cr L J 410=1923 Pat 119 1927 L 178=99 I C 87 22 I C 736=18 C W N 666

7 Or where question is of public interest 84 I C 641=1923 L 601=6 L L J 50

8 Or if it is clearly wrong in evidence and unreasonable 1927 L 549=102 I C 492 15 P R 1916 26 P W R 1913=328 P L R 1913—14 Cr L J 525

9 There is no distinction in procedure governing an appeal from acquittal and an appeal from a conviction 54 I C 161 20 A 459 19 B 51 11 I C 617, 21 B L R 1054 26 B L R 113 12 P R 1913 81 I C 306=1924 B 335, 1927 B 501, 32 I C 137, 1931 A 712=32 Cr L J 1073 *See* 1931 L 465

10 The onus is on the appellant *viz* Government 47 A 506=1925 A 315=86 I C 52=26 Cr L J 676=23 A L J 25 97 I C. 44

11 Appeal in petty cases is not proper 15 P R 1898 Cr 14 P R 1911 1923 L 339=96 I C 869, 1922 L 52, 1925 L 439—90 I C 792 45 P R 1917

12 Legal Remembrancer appointed by Govt can file an appeal against acquittal 46 C. 534 *See* 41 C 425

13 Private applicants or police can move District Magistrate for filing the appeal 1923 L 163=72 I C 593 24 Cr L J 433

14 Evidence should be too strong to be rejected before High Court will interfere 12 P W R 1919 7 P R 1904 Cr 25 P R 1918 Cr 46 I C 294=30 P W R 1918 It is immaterial that the appellate Court might have arrived at a different conclusion if it had tried the accused as a Court of original jurisdiction 70 P L R 1918=44 I C 179=19 P W R 1918, 36 I C 585, 67 I C 506=1923 P 119

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21 It is incumbent on the magistrate to examine the accused to explain away evidence against him S 342 Cr P C 10 C 140 5 A 253, 30 B 421 17 C 930 23 C 252 *See* Examination of accused

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   (*b*) Or gross error of judgment. 7 P R 1904, 25 P. R 1918, 1927 L. 549=102 I C. 492, 29 P. R 1885, 21 A. 122, 29 P W. R 1918 Cr, 32 A. 451, 45 A. 250, 49 I C. 604.
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7. Or where question is of public interest 84 I C 641=1923 L 601=6 L. L J 50
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9. There is no distinction in procedure governing an appeal from acquittal and an appeal from a conviction 54 I C 161, 20 A 459, 19 B 51, 11 I. C. 617, 21 B. L R 1054, 26 B L R 113, 12 P R 1913, 81 I C 306=1924 B. 335, 1927 B 501, 32 I C. 137, 1931 A. 712=32 Cr L J 1073 *See* 1931 L 465.
10. The onus is on the appellant, *viz*, Government 47 A 306=1925 A. 315 - [illegible] C 52=26 Cr L. J 676=23 A L. J 25, 97 I. C. 44.
11. Appeal in petty cases is not proper 15 P R 1898 Cr, 14 P R 1911, 1923 L [illegible] 96 I C. 869, 1922 L. 52, 1925 L 439=90 I C 292, 43 P R. 1917.
12. Legal Remembrancer appointed by Govt can file an appeal against acq[illegible] 534 *See* 41 C 425
13. Private applicants or police can move District Magistrate for filing [illegible] L. 163=72 I. C. 593=24 Cr L. J 433
14. Evidence should be too strong to be rejected before High Court [illegible] W. R. 1919, 7 P R 1904 Cr, 25 P R 1918 Cr 46 I C 294=39 P [illegible] It is immaterial that the appellate Court might have arrived at a d[illegible] if it had tried the accused as a Court of original jurisdiction. 70 P. L [illegible] I. C. 179=19 P. W. R. 1918, 36 I C. 588, 67 I. C. 506=1923 P. [illegible]

Acquittal—(contd.)

15. High Court will not interfere where appeal is based on doubtful weighing of facts. 7 P. W. R. 1916 Cr.=32 I. C. 833.

16. Appellate Court will not convict the accused of an offence entirely different from that charged against him in grounds of appeal. 63 P. L R. 1911, 46 P. W. R. 1911 Cr.

17. Power of Revision should be sparingly used especially when Govt. has not preferred appeal. 32 I. C. 683=17 Cr. L. J. 91.

18. On acquittal by Jury on facts, appeal does not lie. 10 C. 1029. *See* 26 M. 1.

19. High Court will not ordinarily interfere to set aside acquittal in petty assaults. 1927 M. 298=99 I. C. 346=28 Cr. L. J. 138.

20. If evidence is open to suspicion, acquittal should not be set aside. 1931 Oudh 83.

21. The appeal against acquittal should prevail when the lower Court has not obviously blundered and gone wrong as to produce a result mischievous at once to the administration of justice and the interest of the public. 1931 A. 439, 4 A. 148, 9 A. 528, 16 A. 212, 21 A. 122.

22. If a public prosecutor withdraws a charge of murder and asks only for a conviction on a minor charge (culpable homicide), and then asking the High Court to convict the accused of murder is nothing short of scandal. 1931 M. W. N. 873.

23. No appeal under S. 417 can be preferred by Local Government against an order of acquittal, when an appeal preferred by the accused against his conviction has already been heard and decided by the High Court. 1932 Nag. 73=139 I. C. 63=33 Cr. L. J. 728, 2 C. 437, 1925 B 268, 1926 B 555

24. The public prosecutor must take out strong and cogent grounds to justify interference with the judgment of acquittal The appellate Court must be slow to differ from the opinion of the trial judge as regards the value of the testimony of witnesses, unless there are good grounds 9 O W. N. 145, 9 O W. N. 321.

25. The initial presumption of innocence of accused is strengthened by the verdict of acquittal and the Court of appeal will interfere only if it is proved beyond doubt not only that accused person is guilty but that he has been acquitted on unreasonable grounds 4 A. 148, 8 Rang. 671, 131 I C. 436.

26 There is no difference between the treatment by High Court of an appeal against a verdict of acquittal and that of an appeal from a conviction according to all High Courts, the inclination of the Lahore High Court being to attach more importance to it perhaps in the interest of the accused 1931 L. 18=130 I. C. 324, 7 P. R. 1904, 38 M. 1028, 17 C. 485, 19 B 51, 20 A. 459, 8 Pat. 496 and 1929 Pat. 508 Ref. 4 A. 148 not foll

27. Where the magistrate failed to apply his mind to the salient features of the case and acquitted the accused on grounds which were irrelevant or unsupported by evidence, it is good ground for interference. 134 I. C. 112=32 P. L. R. 877.

28. Appeals against acquittal are to be judged by a standard different from that applicable to those against conviction. 1931 L. 465=1931 A. 712

29 When the case was on the border line or very near it, and it was possible for the Court to hold a person guilty or not guilty upon the balance of probabilities, the reversal of the order of acquittal is not desirable or expedient. 1931 A. 439, 1931 A. 712=133 I. C. 795=32 Cr. L. J 1073.

30. Even after bearing in mind all presumptions in favour of accused, appellate Court is convinced that conclusion of trial court was wrong, order of acquittal can be set aside. 1934 A. 27=56 A. 354.

31. Mere fact that trial court was not perverse or has not come to unreasonable or distorted conclusions does not prevent appellate Court from allowing appeal, if trial court has been misled by extremely clever defence supported by forged documents. 56 A. 354=1934 A. 27, 4 A. 148, 9 A. 528, 16 A. 212, 20 A. 459 Ref., 1934 Oudh 229.

32. An order of acquittal should not be interfered with unless the Judge was incompetent, stupid or perverse and came to distorted or unreasonable conclusions, and had obstinately blundered. 4 A. 148, 9 A. 528, 16 A. 212, 20 A. 459.

Acquittal—(contd)

33 Facts can be gone into and different conclusions can be drawn 1934 Rang 44=35 Cr L J 855 15 P R 1904 and 1932 Rang 146 Rel on

34 The judgment of lower Court need not be perverse or patently wrong, for justifying interference 1934 Rang 44= 35 Cr L J 855

35 The appellate Court should not interfere unless the order of acquittal is clearly wrong and it amounts to miscarriage of justice 1934 Rang 44=35 Cr L J 855

36 If conclusions of trial court are clearly wrong High Court can set aside acquittal 1934 Oudh 279=35 Cr L J 843 1934 A 27—56 A 354 and 1933 Oudh 340 foll

37 Appeal from acquittal on matter of fact is competent 1934 P C 227 (2)

38 In appeal from acquittal accused starts with double presumption in his favour Crown must show conclusively that the inference of guilt is irresistible 1934 Pesh 129

39 To justify interference it is sufficient that the finding is clearly wrong and unreasonable though not perverse or foolish 1933 L 871=35 Cr L J 137, 7 P R 1904 and 15 P R 1909 Rel on

40 In appeal against acquittal the benefit of doubt goes against appellant 1933 L 871

41 Acquittal should not be set aside unless the trial Court has taken a perverse view of evidence and has arrived at an unnatural and distorted conclusion 1935 Pat 350=15 Pat 108 1929 Pat 491 and 1934 P C 227=56 A 645 Foll

42 If the accused in a trial of serious offence is convicted for lesser offence acquittal for serious offence cannot be set aside except on appeal by Government 1936 A 758 1928 P C 254 Rel on

3 Bar to Fresh Trial *See* S 403 Cr P C

1 Acquittal under S 408 I P C for Criminal Breach of Trust is bar to fresh trial for falsification of account—S 477 A 49 C 924—1923 C 179

2 Conviction for affray is no bar to subsequent conviction for hurt 47 A 284

3 Conviction under S 411 I P C in a Native State is bar to fresh trial for the same offence in British India 1924 L 238—24 Cr L J 715

4 Case compounded by complainant Complainant s master alleging that he did not sanction it Acquittal is a bar 1924 A 778=83 I C 658

5 Acquittal under S 419 I P C is no bar to fresh trial for prosecution under S 82 Registration Act when former Court not competent to try 62 I C 142

6 Acquittal under S 193 I P C is bar to fresh trial under Ss 467 471 I P C on the same facts 87 I C 847=1926 C 450

7 Dismissal of complaint under S 247 Cr P C is bar to fresh trial *See* 'Absence of Complainant in summons cases 1923 C 407=25 Cr L J 149

8 Accused convicted for one stolen property found with him cannot be convicted for other properties unless shown to have been received under different circumstances 83 I C 481=1925 Oudh 298=26 Cr L J 1

9 Order under S 247 before accused was served with summons is bar to fresh trial 1924 P 140=74 I C 719 *See* 61 I C 59

10 Acquittal under S 338 I P C for rash driving a motor car is bar to fresh trial under S 16 Motor Vehicles Act for driving without license 91 I C 207

11 Acquittal of an offence under Penal Code is bar to fresh trial under Registration Act 1 Rang 299=76 I C 431

12 Court trying first case is not competent to try subsequent case There is no bar to second trial 1925 M 711=48 M L J 490=26 Cr L J 1087

13 Omission to frame charge does not invalidate an order of acquittal and render it equivalent to an order of discharge Such an order is a bar to retrial for the same offence 3 A 129

4 By Fraud

If the accused obtains a judgment of acquittal under S 247 Cr P C by means of fraud on the court (by preventing the complainant from appearing when the case is called or by

Acquittal—(*contd.*)

wrongfully arresting and detaining him on a false charge), the Code does not permit the court to cancel the judgment of acquittal on proof of fraud and restore the case to the file. 38 M. 1028.

5. Discharge from custody on—

A prisoner is entitled to be discharged from custody immediately on judgment of acquittal being pronounced, and no formal warrant is necessary. His further detention is illegal, if there is no charge pending against him. 5 M. H. C. R. App. 2.

6. Grounds of.

1. If F. I R. falsifies the complaint, accused should be acquitted. 224 P. L. R. 1911.
2. If court had no jurisdiction, verdict of acquittal is bad in law. 45 A. 226.
3. If there is a reasonable doubt of guilt, there should be an acquital. 15 P. R. 1909.
4. If prosecution fails to prove its case accused is to be acquitted. 1926 P. 5.
5. If the approver's evidence is unreliable and identification of accused is doubtful, he should be acquitted. 113 I. C. 73=30 Cr. L J. 57.
6. If the agent who filed complaint on behalf of his master has compromised the case, accused should be acquitted 1924 A. 778=83 I. C. 658
7. If there is no clear finding about the time of occurrence and prosecution evidence is vague, accused should be acquitted 1922 Pat. 88.
8. If the prosecution is false, accused is entitled to acquittal whether the defence of the accused is false or true 1921 C 531=65 I. C. 1004.

7. Reference to High Court against—*See* Reference.

8 Remarks against accused while acquitting.

A court while accused is acquitted should be scrupulously careful not to go beyond the implications of evidence and remark that accused has escaped the clutches of law. 1930 M W. N. 1253.

9. Revision against— *See* Revision—2.

ACT.—*See* Illegal omission

Act endangering Personal safety—*See* Rash and negligent act.—1.

ACTS DONE IN FURTHERANCE OF COMMON INTENTION. S. 34, I. P. C.

1. Acquittal of some of the accused.

If some accused were acquitted under Ss 467-193-34, I. P. C. and the rest were convicted under Ss 467-193, the conviction is invalid. 58 C. 822=1931 C. 625.

2. Applicability of S. 34.

1. S 34 does not apply to S. 304, Part 2, I. P. C. 1925 C. 913=86 I. C. 475=26 Cr. L J. 827, *Cont.* 1927 C 324=100 I C. 718.
2. S 34 has no application in the construction of S. 397, I. P. C. 96 I. C. 501, 1921 L. 149, 52 B. 168, 98 I. C. 181, 1931 Pat 49
3. S 34 does not apply to cases where several persons intend to do one act and some apply. 86 I C. 475=1925 C. 913=26 Cr. L J. 827. In such cases S. 149, I. P. C. may
4. S. 458, I P. C. only applies to the house breaker who actually has made preparation for causing hurt and does not apply to his companions 4 L. 392.
5. S. 34 deals with doing of separate acts similar or diverse by several persons, if all are done in furtherance of common intention. Each person is liable for the result of them all as if he had done them himself for that act. 52 C. 197=1925 P. C. 1.
6. S 34 only applies when there is a substantive charge of an offence having been committed. 16 C. W. N. 1077.
7. S 34 does not create a new offence. If it is proved that the other accused had no hand in committing the offence, he is not liable. 58 C. 822=1931 C. 625.
8. S. 34 does not apply if the altercation is the result of sudden quarrel. 1931 L. 523 (1) =131 I. C. 382=32 Cr. L. J. 734.

Acts done in Furtherance of Common Intention—(*contd.*)

9. On a charge under Ss 304-149, a conviction under Ss. 304-34 is legal. 1934 M. 565, 54 M. 25, 1929 Pat. 11, 52 C. 197, 47 M. 746 and 49 B. 84 Foll.

10. S. 34 does not apply to sudden quarrels 1935 Pesh. 41=1935 Cr. C. 250.

11. Absence of specific mention in the charge sheet does not make conviction invalid, if no failure of justice is occasioned. 1934 L. 227=151 I. C. 741.

3. Constructive responsibility.

1. A court is not to presume that every person who is proved to have been present in a riot at any time or to have joined it at any stage during its activities is in law guilty of every act committed by it from beginning to end. 1923 M 369.

2. If there is renewal of activities of a riotous mob after one hour, it must be shown that they were present during the second riot or that the second riot was a continuation of and a likely result of the first 73 I C 147=1923 M. 369=24 Cr. L J. 531.

3. Because a person is an important personage among the rioters he cannot be held responsible for all that his comrades did in the course of riot 1923 M. 369

4. If there was no common intention to cause hurt and the fatal blow was an unpremeditated act springing from his mind alone, then the other persons who may have struck a blow or two are not liable constructively of murder 12 L 442

5. Where several accused of whom B and M were two, invaded the compound of L with a view to insult females by way of retaliation and were armed with *gandasas* and one of them struck the blow and killed D Held that in order to marke B and M equally liable for murder, it must be proved that both of them struck the deceased. They were liable under Ss 325 109, I P C, 24 P R 1919 Cr, 41 C 1072, 21 P. R 1919 Cr

6. Accused incited others to cut deceased and he was cut resulting in death Held, he was guilty under Ss 302 34 1933 Rang 236, 1925 P C. 1.

7. Fatal injury was caused by some of the accused in a sudden fight. The author of injuries was not known All accused should not be convicted unless S 34 applies. 1933 L. 865.

4. Criminal act.

1. A criminal act means that unity of criminal behaviour which results in something for which an individual would be punishable if it were all done by himself alone, that is, in a criminal offence 27 Bom L R 148, 27 Cr L J 827, 52 C 197 overruling 41 C 1072 and 50 C 41

2 " Criminal act done by several persons includes the case of number of persons acting together for a common object and each doing some act in furtherance of the final result, when various acts make up the final act 1924 C 257=81 I. C 353

5. Deadly weapon carried by some—

1 Where one or more members of an assembly carries deadly weapon and where the carrying of a deadly weapon is in prosecution of common object the others are liable under S 148 or S 149 1926 M 741=96 I C 158=27 Cr L.J 894, 22 C. 276 Expl.

2. If one of the party of dacoits carries a deadly weapon it cannot be said that it would increase the gravity of the offence in the case of his associates who were not similarly armed 1927 L 149=99 I C 49, 1923 L 104 foll 16 P. R 1901 and 15 P. R. 1901 not foll. 52 B 168, 98 I C 181

3. If a deadly weapon is carried without the knowledge of the other members of the assembly for the private ends of a particular individual, the other persons would not be guilty under S 148 27 Cr L J. 894=96 I C 158.

4. S. 34 does not apply to dacoits who had no weapons 130 I C 257=1931 P. 49.

5. When the common intention is to cause grievous hurt and blow on the head is given with *chhavi* by one accused, causing death, the accused are guilty under Ss. 326-34. 1935 L. 97.

6. Distinction between common object or common intention under S. 34.

1. The object of an assembly as a whole may not be the same as the intention which several persons may have when in pursuance of that intention they perform a

Acts done in Furtherance of Common Intention—(contd.)

criminal act and it may be that the object of the assembly may be lawful whereas the intention of the accused may be criminal and joint criminal act must be imputed to all. 7 Pat. 758=1929 Pat. 11=113 I. C. 676=30 Cr. L. J. 205.

2 It must be shown that all persons charged under S. 34 must have consented to and contemplated the commission of the particular crime committed. The existence of common intention is the sole test of joint responsibility. Under S. 149 the common object of the assembly must be proved 1923 Rang. 268.

3. There is difference between object and intention ; for though the object of an unlawful assembly is common intention of several members may differ and indeed may be similar only in the respect that they are all unlawful. The element of participation which is the chief feature of S. 34 is replaced in S. 149 by membership at the time of commission of offence 1925 P. C. 1=84 I. C. 47, 4 P. L. W. 129, 7 P. L. T. 388.

7. Essentials for applicability of S. 34.

1. The crime of conspiracy is complete the moment two or more have agreed that they will do at once or at some future time certain things. When there is common intention S. 34 applies. 31 Bom. L. R. 515.

2. Common intention is essential for applying S. 34, 63 I. C. 157, 81 I. C. 353.

3. To justify application of S. 34 there should be some act done by accused, which can be regarded as part of the criminal act in question. 1923 M. 187=72 I. C. 360.

4. To apply S. 34 it is not necessary that accused should actually with his own hand commit the criminal act. If he helps by his presence or by other acts in the commission of the act, then he would be held to have done that act within the meaning of S. 34. 1996 P. 182=90 I. C. 154=26 Cr. L. J. 1498, 1924 C. 257.

5. Where persons formed themselves into a body with the common intention of beating the complainant, and while two of them assaulted him, the other two stood by ready armed with lathis to take part in assault if necessary, held that the latter two were equally guilty for the assault. 18 Cr. L. J. 382.

6. The Court must arrive at finding as to which of the accused took what part in furtherance of common intention. A conviction without such finding is illegal. 35 C. W. N. 463=134 I. C. 1198=1931 C. 643=33 Cr. L. J. 92.

7. The evidence against the accused charged with Ss. 457-34 was that he went with S. who stole bottle, that he had no business in that street and that he along with S asked for pardon. Held, that evidence was insufficient. 12 L. L. J. 321.

8. When a murder is pre arranged, all participants are guilty under S. 34, and by whom the shot is fired is immaterial. 1935 Pesh. 75=36 Cr. L. J. 958.

9. The common intention referred to in S. 34 is an intention to commit the crime actually committed. 1935 Rang 299=158 I. C. 441. 1931 Rang. 1=32 Cr. L. J. 495 and 1935 Rang. 89=36 Cr. L. J. 605 Rel. on.

10. Where the crime committed is held to be murder, the Judge cannot convict the accused under S 326 read with S. 34. *Ibid.*

11. Question as to existence of common intention is one of fact. *Ibid.*

12. S. 34 applies even if criminal act is the act of single individual. 1933 A. 528, 1934 C. 257, 1924 B. 502, 50 C. 41.

13. Pre-arranged plan of committing offence is not necessary for S. 34. Common intention may be conceived immediately or at the time of offence. Intention is to be gathered from the conduct of accused. 1936 A. 437.

8. Firing by one of the accused.

1. Where the accused who was in the company of others who had fired shots did not try to run away or even try to prevent his companions doing what they did, but was seen putting his hand to the dagger in his belt to wound those who surrounded him. Held, he was also guilty of murder like his companions. 1935 C. 526=157 I. C. 829=36 Cr. L. J. 1220, 52 C. 197 foll.

2. Where several shots are fired but there is only one wound, all the assailants will be liable for murder. 52 C. 197.

9. Furtherance of common intention.—Joint attack.

1. Acts done in furtherance of common intention make all equally liable for the result of all the acts of others. 7 A. W. N. 237.

2. Where several persons joined together in striking another but there was no evidence to show that the common intention of all was to cause grievous hurt, the conviction of all of them for the same offence is bad in law. 9 A. L. J. 180, 14 I. C. 649, 26 M. L. J. 311. *See* 16 C. L. J. 440.

3. The presumption of constructive intention must not be too readily applied or pushed too far. 20 Cr. L. J. 289=50 I. C. 337.

4. Where several persons inflict minor injuries to a man but one of them dealt a fatal blow and it is doubtful who struck it, none of them is responsible for the fatal blow. 14 Cr. L J 241.

5. Where several persons inflict numerous injuries and the cumulative effect of all or some of injuries is to cause death, all are responsible for the fatal assault. 14 Cr. L. J. 241

6. In a quarrel if one person calls upon another to beat his opponent, he is equally guilty under S. 323 along with the persons who caused hurt. 26 Cr L J. 67

7. Where several persons took part in a beating so as to break 18 ribs or cause his death, all are guilty of murder 2 P R. 1887 Cr., 16 C W N. 909.

8. Where several persons give numerous *lathi* blows to a man who dies soon after, all are guilty of murder. 45 A 130, 45 A. 727, 14 Cr. L. J 609, 4 L. L. J. 277, 23 Cr. L. J 54.

9. Where three persons assaulted the deceased and one of them gave fatal blow on the head, held that in absence of proof that the accused had the common intention to inflict injury likely to cause death, they could not be convicted of murder. 19 M. 483, 36 C. 659, 5 L L J. 121 *See* 27 Cr. L J 619.

10. If it is doubtful which of the two gave fatal blow, none of them is guilty of murder, when they were not acting in concert 18 P L R 1919, 17 A. L. J. 1095.

11. Where four persons formed themselves into a body with the common intention of beating complainant and while two assaulted, the other two stood ready armed with *lathis* to take part in the assault, if necessary, held, that the latter two were equally liable for assault 18 Cr. L J 382

12. During the trial of a political case, police was posted in different places in the Court to keep order. Large crowd gathered and there was some quarrel between some policemen and the individuals Held that assault on individual policeman was an independent act and S 34 did not apply 20 A L J 706

13. Four men joined in committing robbery. Two of them went from house to house to compel inmates to give up valuables, while two kept watch, one of whom had a gun When people began to throw stones on them, he fired and killed a stone thrower Held, that others were not responsible for murder 21 P R 1919 Cr.

14. Two persons armed with deadly weapons attacked D. Their common intention was to disgrace one K The person giving the fatal blow was convicted of murder, while the other under S. 325 read with S 109 24 P R 1919 Cr, 27 Cr L J 233.

15. Three persons fired pistols at the Postmaster, after having called upon him to hand over money He was hit in two places and died Held that all were guilty when he was killed in furtherance of the common intention of all. 52 C. 197, 28 Cr L. J. 854=1925 P. C 1=1927 L 765

16. When four persons armed with heavy sticks came with the set purpose of making serious onslaught and inflicted a number of fatal blows with the result that two died and third could not move Held that all were guilty of culpable homicide even though it was not known who gave the fatal blow 8. L. L. J. 198=27 P. L. R. 347, 11 L L J 20

17. In case of a joint attack in furtherance of common object all are liable, although it is not known who gave the fatal blow 94 I C 363, 32 C 197=1925 C. I. (P.C.) 52 M. 147=1929 M 342=16 I C 135=30 Cr L J. 625=1929 M W N 181, 40 A. 686, 63 I. C. 636, 95 I. C. 766=27 Cr L. J. 846, 1927 L. 631=99 I. C 90.

Acts done in Furtherance of Common Intention—(*contd*)

18 Where a fight in response to a challenge resolves itself into two single combats the principle of joint responsibility under S 34 does not apply 1930 L 485

19 In case of joint assault, the accused are responsible for the injuries to the extent to which they had common intention to cause those injuries 61 I C 522

20 Where grievous hurt is caused in furtherance of common intention, all are guilty under S 325 but one man cannot be convicted under S 326 =30 Cr L J 167

21 If grievous hurt is the result of the aggregate of several simple injuries caused by accused they are guilty under S 325 read with S 34 133 I C 455

22 Where a number of persons armed with *dangs* and *chhavies* go to forcibly carry off girl all are guilty of grievous hurt if it is caused to the friends or relatives of the girl in attempting to save her 1925 L 565=88 I C 273

23 Where all accused came on the spot armed before murder is completed and the murder is a pre arranged one and the accused has part assigned to him before and such as keeping away the intruders it is no defence that he did not give an blow, nor his presence can be considered accidental 1930 Pat 545=11 Pat L T 787=32 Cr L J 66=125 I C 114, 52 C I 197

24 In absence of common intention none of them can be guilty of murder, unless it is proved that he actually struck the fatal blow 1930 Sind 99=120 I C 520=31 Cr L J 117=24 S L R =1930 Cr C 282

25 A murderer of a person who ran away from the scene of robbery cannot be said to be in furtherance of common intention 1929 L 336=115 I C 1

26 Four persons went to the house with the common intention to rob and if necessary to kill any person resisting or raising alarm they are all guilty if death is so caused 1927 L 765=104 I C 630=28 P L R 583, 89 I C 719

27 If the common intention is to give thrashing and one of the accused gives spear blow, others are not liable 86 I C 150=26 Cr L J 710

28 Where four persons armed with deadly weapons pursued and killed a man, all are guilty of murder 1924 L 415=69 I C 449

29 If a man joins another to assault a person, even though the original intention may be to cause harmless injuries and he sees his companion causing death, he is guilty under S 304 read with S 34 if he does not interfere with the action or assist the deceased 1929 P 65=114 I C 222=30 Cr L J 276

30 Several persons assaulted A with *chhavis* on a quarrel over turn of water, who died of injuries It was not certain as to who caused the fatal blow Held, all are guilty under S 326 read with S 34 1924 L 216=24 Cr L J 401

31 If five men assaulted at one and same time each of them seeing that the other four are assaulting also they may be regarded as having common intention to beat the victim of the assault though impulse to assault may have arisen independently 1931 Rang 321=1931 Cr C 1007

32 If there was no common intention to cause hurt and the fatal blow given was an unpremeditated act others are not liable although they gave some blows as well 12 L 422=1931 L 749=134 I C 793=32 Cr L J 1219

33 Where all accused joined in beating the deceased to death mercilessly, but it was not shown who inflicted the fatal blow the accused may be sentenced to transportation for life 1932 L 169=137 I C 282=33 P L R 1

34 Whether an act is done in furtherance of common intention is a question of fact and it can be inferred from the circumstances 1935 Rang 89=13 Rang 210=154 I C 881 1924 C 257=25 Cr L J 817 (F B), 1925 P C 1 =52 C 197, 1931 Rang 1=32 Cr L J 495 1933 Rang 236=35 Cr L J 41=146 I C 392 49 B 84 1924 B 502 55 A 607=1933 A 528 Rel on

35 Two person making concerted attack on deceased are both guilty although it is not proved that one of them struck any blow 1933 L 313=34 Cr L J 724

36 Where the common intention was to commit robbery but one of the accused shot down the deceased Held others were constructively guilty under S 302 1933 L 819 1925 P C 1 Foll 21 P R 1919, 52 I C 395 and 41 C 1072 overruled by 1925 P C 1

Acts done in Furtherance of Common Intention—(*concld.*)

37. When two or more persons set on another with hatchet and *dangs*, S. 34 applies. 1933 L. 927=34 Cr. L. J. 911.

38. Accused attacked with *lathis* a person on inimical term with them, as soon as they saw him, S. 34 applies. 1936 A. 437, 35 A. 560 Ref. 9 A. L. J. 180 and 1931 L. 523 not foll.

10. Killing while retreating

Two persons went armed with guns to commit robbery. Large number of shots were fired by them while retreating and trying to escape One of the pursuers was killed by a shot from one of them. Held, that the other was guilty under S 302 read with Ss. 34 and 114. 1934 C. 10=61 C 190

11. Presence at the occurrence —Liability *See* abetment 36 S 114 I. P. C.

1. The mere presence of a person on an unlawful occasion does not raise a presumption of that person's complicity in an offence then committed 14 B 115, 1923 M. W. N. 104=1923 M. 369 (2)=73 I. C. 147=24 Cr L J 531.

2 A man is not liable if present at the scene, if he takes no part in it and does not act in concert with the offenders, merely because he did not endeavour to prevent it or to apprehend the felon (1866) 5 W. R. (Cr) 45.

3. When four persons are present at the commission of murder all are guilty even if two of them are alleged to have taken no part in it 52 C 197=1925 P. C 1, 1929 L 338=30 Cr. L J 385=115 I C. 1.

4. Where both master and servant were present at the sale of *ganja* in contravention of the terms of license and servant received the money, he was quilty by operation of S. 34 29 C 496.

5. Where all accused came on the spot armed before murder is completed and it was a pre arranged murder and the accused was appointed to keep off the intruders, he cannot plead that he is not liable as he did not strike the blow on the deceased. His presence cannot be considered accidental 1930 P 545=32 Cr L. J. 66.

6. When three men fired at the postmaster but there were only two wounds, all are guilty of murder. 52 C 197, 29 C 495, 35 C 693, 35 A 329, 21 C 263, 41 C 154.

7. Where four persons took out a woman with the intention or knowledge that one of them should kill her, all are guilty if she is killed by one 1927 Sind 85

8. Persons who are present at the murder and thereby give moral support to it are equally guilty as the murderers 47 A 276=1925 A 185=85 I C 130=26 Cr L J. 450.

9. Where the only evidence against the accused was that they were found near the sceen of occurrence and there was no evidence that they conspired to kill the deceased, they were not guilty 1932 L 254 (2)=137 I C 65, 1934 L 813

10 Where one of the accused is present when the fatal blow is struck and shares with the others the intention to cause death, he can be convicted of murder 8 Rang 603.

11. Accused was charged with murder He came to the spot armed with *lathi* but did not give blow although others killed the deceased Held, he could be convicted under Ss 325 109 132 I C 529=32 Cr L J 905=1931 Oudh 274

12. Series of acts.

1. S. 34 contemplates series of acts done by several persons, some by one of those persons and some by others, but all in pursuance of common intention All will be equally liable 1935 C 526=157 I C 829=36 Cr L J 1220, 52 C 197 foll.

2. Where the accused who was in company of others who had fired shots did not try to run away or prevent his companions from doing it but was seen putting his hand in the belt where lay a dagger to wound those who were surrounding him, Held, he was guilty of murder like his companions 1935 C 526=157 I C. 829=36 Cr. L. J. 1220, 52 C. 197 foll

ACTS DONE IN PROSECUTION OF COMMON OBJECT.—S. 149, I. P. C. *See* Unlawful assembly

ADDITIONAL DISTRICT MAGISTRATE.—See District Magistrate.

ADDITIONAL EVIDENCE.—S 424 Cr P C See Appeal—3.

ADDITIONAL SESSIONS JUDGE.—*See* Court of Sessions. Ss. 9, 193 (2), 409, Cr. P. C

1. Cognizance of offences by—S. 193 (2).

1. A Sessions Judge can make over all references under S. 123 to the Additional or Assistant Sessions Judge, because 'case' includes reference. 50 C. 229.

2. "Case" does not include appeal. A Sessions Judge cannot transfer an appeal filed in his court to Additional Sessions Judge under S. 193 (2). 37 A. 286.

2. Powers of—S. 17, Cr. P. C.

1. If a Sessions Judge makes over an appeal to the Additional Sessions Judge to be tried, he can withdraw it and take it on his own file and decide it. 44 A. 157.

2. The appellate jurisdiction of Sessions Judge is not ousted in consequence of any arrangement which he might previously have made for the convenient disposal of the work of Sessions Court. 1922 A. 387=65 I. C. 491, 44 A. 157=23 Cr. L. J. 107.

3. An Additional Sessions Judge has no jurisdiction to transfer a case on the file of another Additional Sessions Judge to the file of a Sessions Judge. A Sessions Judge even cannot transfer it. 1931 A. 435=1931 A. L. J 591.

4 The Code strictly limits the powers of an Additional Sessions Judge to such as are conferred upon him directly by the Local Government or by the Sessions Judge of Division. Powers to grant or cancel bail could be conferred on him under S. 17, Cr. P. C, where no such power is conferred and the order granting or cancelling bail is *ultra vires* 1930 Rang. 335=128 I. C. 577=32 Cr. L. J. 148.

5. An order by the Government specifying the judge and the place of trial for a case, even if it falls within the category of administrative orders, is nevertheless open to modification by the High Court. 55 B. 576=1931 B. 313.

6. A notification by the Government directing a case which had been committed to the Court of Sessions at Thana to be tried at Ali Bagh instead and by Mr. G. the Additional Sessions Judge of Thana is not illegal and *ultra virses*. 55 B. 576.

ADJOURNMENT—S. 344, Cr. P. C.

1. By appellate court

Appellant cannot be burdened with costs for adjournment of appeal, as S. 344 does not apply to appeals. 29 P. R. 1919 Cr. *See* 28 A. 207.

2. Costs of—

1. Accused cannot be made to pay the costs of complainant for being absent. 1922 A. 184 (1)=66 I C 179, 6 P. R. 1906, 8 P W R 1911 Cr.

2 After charge complainant is not liable for costs of adjournment. 1924 L. 627.

3. If one of the accused is absent, complainant cannot be ordered to pay costs of adjournment for failure to produce evidence. 1926 L. 407=27 Cr. L. J. 572.

4. A court cannot give adjournment conditionally on paying costs. 40 M. 1130.

5. In a case of prosecution by police, the complainant cannot be burdened with costs for adjournment. 1922 B. 239=66 I. C. 994=23 Cr. L J. 338.

6. Court can order costs, under exceptional circumstances. 42 B. 254, 20 P. R. 1904.

7. Awarding costs of adjournment is no valid ground for transfer. 42 I. C. 918.

8. When co accused was absent, awarding costs against the accused for adjournment is unjustifiable. 1934 L. 441, 6 P. R. 1906 Rel on.

3. Counter cases—*See* Counter cases.

Postponement of cross compliant owing to police challan is illegal under S. 344. 1924 C. 634=83 I. C. 625.

4. For applying for transfer.—*See* Transfer.—2.

5. For cross-examination of witnesses—*See* Cross examination.—2.

6. Grounds of—

1. Adjournment should not be given when accused did not take out fresh process for witnesses failing to attend after service. 46 M. 253=1923 M. 185.

Adjournment—(contd.)

2. Adjournment should be allowed for production of ducuments in S. 145, Cr. P. C. cases. 61 I. C. 63.

3. When the accused's counsel had engagement at another place, magistrate is not justified in deciding the case without hearing defence. 12 Cr. L. J. 474.

4. It is not at the sweet will of the prosecution to get adjournment and the court ought not to encourage it. 1926 C. 102=87 I. C. 970.

5. Provisions of S. 344 must be strictly construed and convenience is no ground for infringement. 63 I. C. 461.

6. Where a case is fixed for future date, it cannot be heard at an earlier date without notice to the accused. 29 Cr. L. J. 1092=1929 Nag. 42.

7. When principal accused is absent for a long time, adjournment to have the principal accused produced and the joint trial is not desirable. 49 C. 182.

8. Appellant cannot be burdened with costs for adjournment, for S. 344 is not applicable to appeals. 29 P. R. 1919=54 I. C. 985.

9. A magistrate should take some evidence before granting adjournment. 30 I. C. 993, 49 C. 182.

10. Court has no right to take up a case after court hours without parties' consent. When the counsel was asked to cross examine a witness at 6 30 P. M., he was right in demanding adjournment 1928 Pat 277=29 Cr. L. J. 299.

11. Adjournment should be given if clearly necessary for the purpose of justice. 1930 P. 241=125 I C 134.

12. In a petty criminal case both parties should be ready to complete their case at a single hearing 1930 Pat. 241=125 I C 134=31 Cr. L. J. 789.

13. Stay is a matter of discretion by the trial court. 1929 Pat. 500=30 Cr. L. J. 110.

14. Refusal to adjourn a case under S 256, so that the accused may cross-examine prosecution witness, vitiates trial. 53 B. 578=1929 B 309

15. An accused applied for copies of depositions of witnesses to instruct his vakil to cross examine them but was not supplied inspite of the reminders. On the date fixed for trial, accused applied for adjournment which was refused and the accused was convicted. Held that the adjournment was improperly refused. 16 Cr. L. J. 334.

16. In capital cases an application for postponement of cross examination of witness to the next day is a reasonable request and refusal to grant it is prejudicial to the accused. 41 C. 299

17. Prosecution is not entitled to adjournment for witnesses not mentioned in the chalan. 1934 Nag 156=35 Cr L J. 1163, 14 Cr. L. J. 682.

18. Court cannot adjourn case *sine die.* 1930 Sind 214, 1929 Sind 115=30 Cr. L. J. 399, 1927 M. 851, 1924 C 614=26 Cr L J. 68, 1926 A. 421 Rel. on, 11 Cr. L. J. 7 Diss

7. Pending civil suit

1. When a person charged under S. 403, I P. C., files a declaratory suit, criminal proceedings should be stayed 8 P. W. R 1916 Cr =34 I. C. 317.

2. Courts should stay criminal proceedings pending civil suit 1924 M. 888, 46 A. 60, 100 I. C. 710, 1927 L. 744, 104 I C. 106, 97 I C 426, 1925 Pat 193 (1)=84 I. C. 350, 33 C. W. N. 969

3. Even if the suit is brought during the pendency of criminal proceedings, stay should be ordered. 106 I. C. 463.

4. In a case of rioting, civil suit to declare title is no bar to trial 1923 M. 595.

5. Criminal case of cheating should be stayed pending civil suit, although it was instituted after police report 1922 L 424=68 I. C 819, 21 P. W. R. 1912 Cr., 33 P. R. 1910, 44 P. W. R 1911.

6. Magistrate ordered prosecution of accused denying execution of sale-deed, it should be stayed pending a civil suit to declare it forgery 62 I. C. 85.

Adjournment—(contd.)

7. When the civil suit is brought after the criminal case the High Court should avoid staying it. 1930 P. 351=125 I. C. 124=31 Cr. L. J. 766.

8. Both courts should be left to dispose of the cases on its file with the utmost expedition. 50 M. 839=1927 M. 778=104 I. C. 252=28 Cr. L. J. 812.

9 In ordering stay prejudice to the accused must be considered. 1926 N. 315.

10. Accused who were trustees of a temple were prosecuted under S. 409, I. P. C, one of them questioned the constitution of the committee of trustees in a civil suit. Held that the criminal case should be pendent till the disposal of civil suit as the point raised in civil suit was material in the criminal case. 1932 N. 86.

11. Where a magistrate stays a criminal charge pending civil action in respect of the matter out of which the charge arose, a mandamus will not be granted to compel the hearing of the charge. 1 M. H. C. R. 66.

12. Where issues in a criminal case are likely to be included in the issues in a civil court which is ripe for hearing and there is a risk of a conflict of jurisdiction it is better that criminal proceedings under S 409, I. P. C. should be stayed. 1935 C. 182=1935 Cr. C. 240, 1920 C. 624=21 Cr. L. J. 481 Rel on.

13. A prosecution launched by police and not by a private party ought to have precedence over the civil litigation. 1929 C 563=121 I. C. 308, 112 I C. 477, 50 M 839=1927 M. 778=28 Cr. L. J. 812. *See* 1935 C. 182.

14. If the disputes in civil and criminal cases are intimately connected and the civil suit is prior in point of time and the common issue is capable of being decided more properly in civil suit, the criminal case should be stayed pending disposal of civil suit. 1935 Sind 187=158 I C. 256, 1932 Nag. 86.

15 When the position of accused will be as a competent witness in a civil suit and the decision of the civil suit will establish a criminal case against some accused it is desirable that criminal case should be stayed more specially when the object of complaint is to coerce the accused to compromise the civil suit. 1935 Sind 187 (188), 1920 C. 624=21 Cr L. J. 481, 50 M. 839=1927 M. 778 Ref.

16 It is only when criminal prosecutions arise directly out of proceedings in civil suits that they must be stayed until civil case is decided. 1935 Rang. 487.

17. Stay order can be set aside if the civil case is being unnecessarily prolonged. 1934 Sind 143.

18. A magistrate ordering preliminary inquiry under S. 202 can stay proceeding pending civil case. 1934 Sind 143

19 The object of trial in every case is to ascertain the truth. It is necessary that Courts should be in a position to estimate at its true worth evidence given by witnesses. And nothing that is calculated to assist it in doing so ought to be excluded, unless for reasons of public policy the law requires its exclusion. 11 Bom. H. C. R. 120. 1935 Sind 145 (171).

20 When the Civil suit was likely to be delayed, the magistrate justly ordered the prosecution evidence to be recorded before the question of staying the criminal case could be considered. 1933 L 37=34 Cr. L. J. 96 1927 M. 778, 1929 Pat. 500.

8. Procedure

1. Magistrate can adjourn a case under S. 344 but cannot stay proceedings in his own court. 1927 M. 851=104 I. C. 625, 1929 S. 115=30 Cr. L. J. 399.

2. A court can postpone an enquiry under the inherent power apart from S. 344. 1929 C. 251=121 I. C. 414, 112 I. C. 477.

3 High Court will not interfere in revision if court exercised judicial discretion. 50 M. 839=1927 M. 778=53 M. L. J. 265=104 I. C. 252=28 Cr. L. J. 812.

4. Application for stay of criminal proceedings pending civil suit cannot be made to the High Court unless refused by the Magistrate. 1924 M. 235=24 Cr. L. J. 640.

5. Once a Magistrate has taken cognizance of a case, his powers of postponement is regulated by S. 344. 1924 C. 614=83 I. C. 628=28 C. W. N. 490.

6. Application under S. 344 to postpone an enquiry is not the commencement of enquiry. 24 P. L. R. 1904.

Adjournment—(concld)

7 S 344 is applicable to cases even before the issue of process and the Magistrate can postpone the issue of process 1925 Pat 619=88 I C 603

8 No pending case should ever be postponed without a date being fixed 1926 A 421

9 Remand—S 167 Cr P C *See* Remand

10 What proceedings can be stayed

S 344 has no application to completed proceedings Where a Deputy Collector has made a complaint to the Sub Divisional Officer under S 476 Cr P C there is no case pending with the Deputy Collector to be stayed or postponed by Deputy Commissioner 1931 Pat 411=33 Cr L J 147 135 I C 513

11 What is ground for transfer—*See* Transfer (Ground of)—5

ADMISSIBILITY

1 Doubts about—

1 If it is doubtful whether evidence is admissible or not the benefit of doubt should be given to accused 1925 L 824=109 I C 774

2 No Judge in a doubtful case of admissibility ought to allow the evidence first to be given and then in his judgment give decision about its admissibility Doubtful or inadmissible documents should not be admitted 1925 A 405=26 Cr L J 881

2 Objection to—S 136 Evidence Act

1 Failure to object to the reception of irrelevant evidence cannot make it relevant 1929 L 583=119 I C 734 124 C 1042=78 I C 219, 1931 M 601, 19 A 74 (P C) 44 B 192

2 Failure of an Advocate to object to admission of hearsay evidence can not alter the character of the testimony 1928 P C 127=107 I C 457=47 C L J 288

3 Questions regarding the admissibility of evidence should ordinarily be raised at time when such evidence is tendered 45 A 226 1926 A 103

4 When at the trial admissibility of evidence is objected to the magistrate must decide it at once whether it is admissible 93 P L R 1918=20 Cr L J 305

5 The objection as to evidence of handwriting of a person was not taken in the trial matter Court the cannot be challenged in revision when prosecution gave sufficient proof of it 1931 A 12=129 I C 443=32 Cr L J 311

6 Objection to admissibility of evidence cannot be taken in appeal 1933 C 190=34 Cr L J 430

3 Of admission—*See* Admission—1

4 Of evidence

1 Evidence to contradict possible evidence of a possible defence witness is not admissible against the accused 1926 C 550 27 Cr L J 222 30 C W N 142

2 Where accused were being tried for having taken part in a dacoity the fact that certain other persons were previously tried for complicity in that dacoity and acquitted is absolutely immaterial and irrelevant 1927 Oudh 369=106 I C 721

3 Misreception of a piece of evidence which is inadmissible but which has very little weight and admission of which causes no substantial injustice does not vitiate the trial 9 Pat 474=1930 Pat 247=124 I C 836=11 P L T 148

4 A witness can state that he suspected the accused of having committed a certain offence although he cannot state who others suspected him 51 A 275

5 It is doubtful whether the opinion of an expert recorded for the purposes of a Civil suit though proved in a criminal case is admissible at all at the latter trial 1928 L 921=110 I C 810 29 Cr L J 728

6 Roznamcha reports even if proved will not be evidence of the facts mentioned in the reports which must be proved like other facts 1928 Nag 255=29 Cr L J 312

7 Secret reports of Tehsildar or Sub Tehsildar under the orders of Sub Divisional Officer are not admissible as substantive evidence in criminal trial 1927 A 147

8 The uncorroborated testimony of a witness which is disbelieved as to one accused

Admissibility—(contd.)

should be discarded also as to accused whom he implicated. 1927 Nag. 43=28 Cr. L. J. 186

9. If prosecution evidence is closed, the door is closed to any further evidence against the accused. 45 A. 323=1923 A. 322=25 Cr. L J. 305.

10. Documents prepared by police during investigation are not evidence and they do not become so after they have been formally proved by witnesses. 1927 L. 79.

11. A first information report was made by an accused person containing an admission which does not amount to confession, the admission is admissible in evidence as against the accused person. 63 I. C. 822=22 Cr. L. J. 694.

12 Evidence taken in one cannot be used in another in a criminal trial. 1923 C. 196=71 I. C. 662=24 Cr. L. J. 198.

13. Evidence before one magistrate is no evidence before another. Mere consent of parties will not do. 1923 M. 327=72 I. C 525=24 Cr. L. J. 413.

14. Admissibility is a question of law and credibility of evidence is one of fact. 47 A. 13=1924 A. 792=80 I. C 939=22 A. L. J. 864.

15. Statements which are not admissible in evidence cannot be made admissible by consent of parties 1923 L 630

16 Evidence of doctor, examining a prisoner without his consent, not for his health but by way of second search is inadmissible 134 I. C. 1053=1931 C. 601.

17. In case of evidence of doubtful or remote relevancy, court should lean in favour of accused and exclude it. 1936 C. 73=37 Cr. L J. 394.

5. Of evidence relevant upon proof of another fact. S 136, Evidence Act.

I. In some cases admissibility or relevancy depends upon proof of another fact. S. 136 (*a*) (*d*) Ev. Act.

2 Where a previous statement is sought to be given under S. 157 to corroborate him, he should be examined before his statements are given in evidence to corroborate him. 9 Cr. L J 576, 5 Cr. L J 411.

3. In appropriate cases, court may allow proof of fact subject to assurance of the party that proof of the latter fact will be forthcoming. If such evidence is not given such evidence will be expunged. Norton, 319 *Law of Evidence by Monir P. 955.*

6. Of matter found on search

1. The crown is entitled to rely upon any material evidence of incriminating character found in the house of accused as the result of house search 51 A. 864.

2. If a search warrant is illegal, then what is found as a result of that search can be put in evidence in a criminal case. 50 B 344=1926 B. 195

7. Of opinion.—*See* Opinion

The opinion of a Judge about the witness in a former trial is inadmissible to shake the credit of a witness in a subsequent trial 4 C. W. N. 684.

8. Of previous Statement—*See* S. 145, Evidence Act.

9. Of Record

1. In a trial for an offence under S. 396, Penal Code, the result of proceedings taken against the accused under S. 110, Cr. P. C., is not admissible. 22 Cr. L. J. 60.

2 Contents of record in a previous case are not admissible unless admitted or proved. 95 I. C 137.

3. Evidence taken in one case cannot be used in another in a criminal trial. 1923 C. 196=71 I C. 662, 72 I. C 525=1923 M. 327.

4 Where a judgment or a decree in a suit cannot be produced, as it had been destroyed, the extract from the suit register is admissible. 112 I. C. 651.

10. Of statements

1. In an excise case statement of accused taken after he was taken to Excise barracks in custody cannot be voluntary and hence inadmissible. 53 C. 706=1926 C. 1163=98 I. C. 401=27 Cr. L. J. 1329.

Admissibility—(contd.)

2. The statement made by a witness before Coroner is admissible at a trial in the Court of Sessions. 1926 B. 404=97 I. C. 37=27 Cr. L. J. 1061.

3. The statement of a witness extracted from a judgment cannot be used in lieu of original statement. 129 I. C. 463=1931 M. 207.

4. Statements which are inadmissible cannot be rendered admissible by consent of parties. 1923 L. 630=80 I. C. 235.

5. Statement recorded under S. 162, Cr. P. C., is admissible against the maker in a subsequent prosecution under Ss. 182-193—211, Penal Code. 35 C. W. N. 838=1931 C. 637=134 I. C 1265=33 Cr. L. J. 60=1931 Cr. C. 837

6. Statements made by persons who have not been examined in court about the absence of accused, when search was made for the accused, are inadmissible 1926 C. 320=92 I. C. 439=27 Cr. L. J. 263=42 C. L. J. 524.

7. Statements made by a witness at the trial should be altogether rejected when it is in hopeless conflict with his previous statements. 1925 L. 483=92 I. C. 577.

8. In order to prove an alleged theft of an account book in a civil court from the plaintiffs' house, the police file and a copy of the statement made by the Sub-Inspector in other cases are inadmissible. 1921 L. 332=69 I. C. 1008.

ADMISSION. S. 21, Ev. Act. *See* Confession.—2, Plea of guilty.

1. Admissibility of.

1. If the admission is not put to the party making it under S 145, Evidence Act, the admission is no legal evidence and cannot be used against him. 1930 L. 695=125 I. C. 886, 1915 P. C. 7, 21 C. W. N. 280, Ref. 31 P. R. 1903 Diss. 31 P. L. R. 243.

2. If the first information report is given by the accused and contains an admission, not amounting to confession, it is admissible in evidence against the accused. 63 I. C. 822.

3. An admission cannot be used against a party unless it is put to him and an opportunity is given to him to explain it, if it is capable of explanation. 11 L. 632=1930 L. 714, 1935 Oudh 41.

2. By accused.

1. When prosecution did not lead any evidence about the making or publication of defamation, the admission by accused is inadmissible against him at the trial. 4 L. 55 =1923 L. 225=73 I. C. 805=24 Cr. L. J. 693. 17 M. 238 Foll. 39 M. 770, 26 C. 49, 28 C. 689, 36 M. 457.

2. If prosecution did not lead evidence about previous convictions or identity of accused, his admission about previous conviction is inadmissible. 28 C. 689, 28 B. 129.

3. If no evidence of apprehension of breach of peace is led, accused cannot be bound over only because he consented to it. 37 C. 467, 37 A. 30, 81 I. C. 196, 1922 M. 349, 24 P. R. 1915, 27 P. R. 1917, 57 I. C. 672.

4. In a prosecution for adultery, admission of marriage by the accused does not relieve the prosecution from proving the marriage. 1928 Pat. 481=112 I. C. 469, 5 C. 566, 1925 O. 701=89 I. C. 464, 5 A. 233 Foll

5. Admission in a civil suit about a document cannot in the forgery case be regarded as confession at all. 1929 C. 539=1929 Cr. C. 194. 37 C. 467.

6. Admission before villagers of guilt is good evidence against the accused. 1928 Oudh 393, 1931 Oudh 415=134 I. C. 1018=33 Cr. L. J. 45=8 Oudh W. N. 1062.

7. Admission of accused is admissible so far as relating to facts thereby discovered. 8 P. R. 1882.

8. Statement by accused during police inquiry regarding property possessed by him of exculpatory but involving an admission of incriminating circumstances is inadmissible. 46 B. 961=1923 B. 65=24 Cr. L. J. 870=75 I. C. 70.

9. Pointing out window by accused, by which they entered to c[illegible] cannot be an admission. 1932 L. 488=1932 Cr. C. 626.

10. An accused was asked, if three packets of cocaine were recovered [illegible] be said that they were recovered but one B. handed them to him and he [illegible] they contained. Held, it is not an admission that he had [illegible] 1924 A. 198=83 I. C. 904=26 Cr. L. J. 200.

Admission—(*contd.*)

11. Evidence given by accused, on his own behalf in extradition proceedings, is an admission by an accused and is admissible under S. 21. *112* I. C. *50=29* Cr. L. J. 962=*1929* Sind 15.

12. Statement *of accused on* oath at Coroner's inquest is admissible at his trial. 50 B. 111=1926 B. 151=28 Bom. L. R. 111=93 I. C. 690=27 Cr. L. J. 466.

13. An accused in a criminal proceeding cannot be deemed to have admitted any fact not denied by him in such proceeding. 41 C. 173.

14. When it is proved that accused soon after the occurrence made a statement incriminating himself, the reasonable inference is that it was true *representation of actual* facts in the absence of rebutting evidence. 25 I. C. 654=16 Cr. L. J. 62.

15. When the accused admitted that he obstructed the road under mistake without admitting that danger or injury was caused to any person, he cannot be convicted under S 283, I P. C 1925 L 153=81 I. C 195=25 Cr. L. J. 707.

16 The statement made by an accused, although it may amount to an admission in his favour, *is relevant otherwise than an admission* as *negativing* any inference of guilt which may be drawn against him in consequence of his silence when he was apprehended S. 21, Cl (*iii*), Evidence Act. 1935 Sind 145 (165).

3. By conduct

1. A statement may be made otherwise than by word of mouth or writing. 1926 Rang. 112.
2. Such a statement can hardly be called as an oral or documentary statement. *1931* A. 9=*32* Cr L J. *1006*.

4 By Pleader

1. A pleader *can admit facts, so as to dispense* with the *necessity* of further proof in a criminal case at the appellate stage 52 B. 686=1928 B. 241=112 I. C. 110.
2. Court can act on the plea of guilt by pleader, if the personal attendance of accused is dispensed with under S 205 50 B 250=1926 B 218=27 Cr. L. J. 440.
3. Where in an Excise case the Excise Analyst was not produced and only his report was admitted, the Sessions Judge *on appeal wanted to call him* as witness *under* S. 428 Cr. P C but the pleader admitted that the report was correct and the parcel contained cocain, held, that even if the admission could not legally be acted upon, the irregularity was curable under S 537, Cr P C *52* B 686=*1928* B. *241*.

5. By witness

1. *Statement* of a *person to police* before he is charged for an offence is an *admission* and is admissible against him 1928 Pat 473=111 I C 721=29 Cr. L. J. 913.
2. Before an admission can be used against a party, it must be put to him and an opportunity afforded to him to explain if it is capable of explanation. 31 P. L. R. 243=1930 L. 991=*123* I. C *278*=11 L 410=12 L. J. 161
3. If the *admission is not put to the* party making it under S 145, Evidence Act, the admission is not legal evidence and cannot be used against the party making it. 1930 L 695, 1915 P C 7, 21 C. W N 280, Ref 31 P R 1903 Diss.
4. Admission in a civil suit about a document that it is genuine cannot be regarded as *confession in the trial for forgery*. 1929 C. 539=*1929* Cr C *194*. 37 C. 467.

6. Collective —By number of persons

Admission by six accused *together is inadmissible* unless witness can say particular words of each accused. 6 L. 437=1925 L 418=90 I C. 145=26 Cr. L J. 1489.

7. Distinction between confession and—.

1. "Admission made at any time by a person charged with a crime stating or suggesting the inference that he committed that crime is a confession. *Stephen's Digest, Art. 21*, 16 P. R 1886 Cr., 20 P. R. 1905 Cr., 6 A. 509 (539) , *6* B 34, 14 *B. 260 (263)*.
2. Statements containing admissions damaging to the accused have been held to amount to confession. 1925 B 529=49 B. 642, 1930 Sind 225, 46 B 961=1923 B. 65, 50 B. 653, 24 Cr. L J 385, 41 C. 601, 42 I. C. 1002, 16 P. R. 1906 Cr., 20 P. R. 1905 Cr., 19 B. 363, 6 B 34, 14 B. 260 ; 6 A. 509.

Admission—(contd.)

3. The test is that if the prosecution relies on the truth of the statement, the statement would be confession ; otherwise, an admission 1930 Sind 225=126 I. C. 449 ; 46 B. 961 ; 41 C. 601 ; 1923 B. 65=24 Cr. L. J. 870 ; 1925 Sind 237=26 Cr. L. J 778 ; 1922 A. 24=23 Cr. L. J. 193.

4. A report made by accused to police will be inadmissible if prosecution relies on the truth of it. 1933 L. 899.

5. If a statement made by accused to police is given in evidence to show that he gave a story to the police different from one given by him in court, the statement will be admissible. 1933 C. 308=34 Cr. L J. 530

6 The test is whether statement as a whole suggests a necessary inference of guilt. If it does, it is confession. 7 A. 646 , 16 P R. 1886 Cr., 5 Bom. L. R 312

8. To be accepted as a whole.

1. When the onl account of what happened on the night of murder is given by the accused himself, his admission in the statement must be accepted in its entirety and if it establishes any mitigating circumstance the accused should be given the benefit of it 1930 L 269=121 I C 178=31 Cr L J 226, 33 P L R 287

2 Conviction cannot lie on the partial admission of accused in defence 1928 Oudh 373 =110 I C 795=29 Cr L J 763

3. Admission to be relied upon must be taken as a whole 1930 P. C 245=127 I. C. 746, 1930 Oudh 370, 49 A 707, 1932 C 39=134 I C 921, 60 I C. 482, 5 I. C. 340, 1923 Rang. 24=70 I. C 911

4 All the words of admission must be taken together even though they operate in favour of accused 41 M. L. J 525=71 I C 270

5 It is not permissible to pick out such portions of admission as are favourable to one and to neglect the rest 1923 Rang 24=70 I C 911 , 1927 A. 385=49 A. 707.

6 Where the admission is made subject to qualifications they must be considered. 1934 M. 100=150 I C 132 , 39 B 399 , 12 I C 246, 2 C 341 (350).

9. To Panchayat —*See* Confession —10

10 To Police —*See* Confession to police officer—S 25, Evidence Act.

11. To Villagers

Although evidence of admission of guilt to villagers is sufficient to justify a conviction, still the evidence that such an admission was made must be closely scrutinized. 1929 Oudh 272 =117 I C 737= Cr L J 829

12 Vague —

In answer to a question put by Court to the accused whether three packets of cocaine were recovered from him, he replied that three packets were recovered from him but were left with him by one B and that he did not know what these packets contained. Held, that statement does not amount to an admission that he had cocaine in his possession. 1924 A. 198=83 I C 904=21 A L J 869=26 Cr L J. 200, 6 L. 437=1925 L 418.

13 Value of

1. Admission is a statement suggesting an inference as to any fact in issue or relevant fact made by accused person 16 P. R. 1886 Cr , 6 A. 509 (539), 6 B. 34, 14 B. 260, 20 P. R. 1905.

2. Admission by husband in the presence of witnesses that he kicked his wife, is sufficient 8 W. R. 29

3. Admission explained away by the accused is on the same footing as retracted confession and conviction cannot lie on such admission. 1927 L. 549=102 I. C. 492=29 P. L. R. 313.

4. In case of admission of guilt by the accused, the statement must be clearly recorded. 18 A. W. N. 1889.

5. A person is not entitled to give an undertaking to a criminal court to abstain from certain action and then file a civil suit for declaration that that undertaking was of no effect. 1925 A. 605=85 I. C. 586.

Admission—(*contd.*)

6. Admission to be relied upon must be taken as a whole. 1930 P. C. 245=127 I. C. 746, 1930 Oudh 370, 49 A. 707, 1932 C. 39, 60 I. C 482
7. Oral confession to a magistrate is relevant and may be proved by testimony of the magistrate 1929 L. 794=121 I. C. 497=31 Cr. L. J. 269, 11 P. R. 1918 Cr., 1925 L 557=27 Cr. L J. 134=91 I. C. 806, 1922 M. 40.
8. Admission under inducement by police is inadmissible. 8 P. R. 1882 Cr.
9. Admission is not necessarily a confession. 16 P. R. 1886 Cr.
10. Admission by an agent or guardian of a minor about minor's age is of little value. 1923 R 164=71 I. C. 140
11. Conviction cannot lie on the partial admission of the accused in defence. 1928 Oudh 373=110 I. C. 795=29 Cr. L. J. 763.
12. Different men are differently constituted, and some though innocent deliberately abscond or make a false admission of guilt in the hope of escaping with a small punishment. 1930 Oudh 324=126 I. C. 684=31 Cr. L. J. 1081.
13. Admissions by parties to a marriage is not sufficient to prove marriage. 20 A. 166.
14. Statement of Honorary Magistrate as to what accused's father admitted or promised is inadmissible. 1935 Pesh. 73

ADULTERATION.—Of food and drink. Ss. 272=273 I. P. C. *See* Cheating—6.

1. Sale of adulterated food which is not noxious is no offence under S. 272, although it may be under S. 420 or Municipal Act. 3 C. W. N. 66.
2. To sell inferior food is not an offence. 15 P. R. 1873.
3. Adulteration with harmless ingredients is no offence 12 B. R. 153.
4. Mixing of vegetable oil with ghee is no offence. 7 Cr. L. J. 405.
5. Person mixing pig's fat with ghee intending to sell the mixture as good or knowing it that it will be sold as such is not guilty. 46 A. 94=1924 A. 214 (1)=83 I. C. 1004.
6. "Noxious as food" means unwholesome or injurious to health and not repugnant to one's feelings. 46 A. 94=1924 A. 214, 12 C. W. N. 608.
7. Mixing of water with milk is no offence. 1 Weir 228, 1926 L. 49=89 I. C. 961.
8. Sale of grains or fodder unfit for horse to eat is no offence. 3 P. R. 1908 Cr.
9. Selling wheat with *admixture of extraneous matter is no offence. 6 B. L. R. 520.* Nor is the sale of grain in a closed pit 28 A. 312=3 Cr. L. J. 208.
10. Prosecution must prove that the accused had knowledge or reason to believe that the article sold was noxious as food or drink. 1922 A. 273 (1)=77 I. C. 1001.
11. Toddy in which germs have germinated is noxious 1 Weir 228.

ADULTERY.—S 497, I. P. C.

1. Abatement of—

The death of husband does not necessarily put an end to a prosecution under S. 497. 4 L. 7=71 I C 77=24 Cr. L. J. 29, 4 M. H. C. R. App. 55

2 Abetment of—

Wife is not punishable as abettor 36 P. R. 1881 Cr , 26 M. 463, 5 P. R. 1871.

3. Applicability of S. 497 to Europeans

1. S 497, I. P. C , applies to Europeans 61 I. C 238=22 Cr. L. J. 382.
2. S 61, Divorce Act, does not preclude public prosecutions under S. 497. 1928 L. 50=29 Cr. L. J 382.

4 Attempt—

1. Producing opportunity for sexual intercourse with a married woman is only a preparation and not attempt. 13 Bom. L. R. 1879 Cr.
2. Absence of complaint by husband for attempt to commit adultery is fatal 4 N. L. J. 245.

Adultery—(contd)

3 Where a married woman went to visit a man but before adultery was committed she was taken away by the husband the man was not guilty of attempt 13 P R 1879 Cr, 25 P R 1902 Cr

4 It is not sufficient to establish attempt that accused was found in a place where adultery might be committed or he was minded to commit it (1889) 1 Weir 569

5 Charge of—

1 A charge of adultery alleging commission of offence between two dates is legal where it is impossible in the circumstances of the case to assign particular date on which sexual intercourse took place 41 C 488

2 If the particular dates on which the offence is committed is not known it is enough to specify period during which it was committed 1935 Oudh 506 51 C 488 and 61 I C 238 Rel on

6 *Complaint of* —S 199 Cr P C

1 A husband under the age of 18 can lodge a complaint 1922 L 168=68 I C 837 4 W R 31

2 The dissolution of marriage does not take away from the complainant (husband) the right to make a complaint 1922 L 477–67 I C 734=16 P W R 1922

3 Absence of complaint by husband for attempt to commit adultery is fatal 4 N L J 245

4 Husband s complaint is not necessary in case of house trespass with intent to commit adultery 23 A 82 47 I C 77=18 Cr L J 881 2 P R 1877 Cr

5 Accused acquitted of rape cannot be convicted of adultery if no complaint is made by husband 19 I C 716=14 Cr L J 284

6 Complaint must be made to a magistrate and not to police 1923 M 59=68 I C 624

7 Examination of complainant on oath is not a part of complaint 1922 M 353

8 Where husband refused to make charge under S 497 the magistrate cannot convict the accused 2 C 415 *See* 38 A 276

9 A formal complaint of the offence must be instituted in the manner provided by S 199 Cr P C 29 C 415 30 C 910 2 P R 18 1925 L 631=6 L 375

10 A *complaint* under S 498 I P C can be treated as one under S 497 64 I C 134= 22 Cr L J 742=24 Oudh C 232

11 S 61 Divorce Act is no bar to prosecution by Crown when moved by an injured husband 1928 L 50=108 I C 381=29 Cr L J 332 1935 Oudh 506

12 Complaint by husband headed as one under Ss 366 368 and accusation under S 497 as well is proper one 1934 L 945

13 Complaint need not express precisely the section under which the accused is to be charged 1934 L 945 20 C 483 and 1934 A 472 Rel on

7 Connivance or consent of husband to—*See* Enticing away married woman [illegible]

1 The mere fact that the husband on being informed by the police that h[illegible] been discovered at a certain place expressed his unwillingness to take her [illegible] ground that she had lost her religion was no evidence of connivance [illegible] husband at her living a life of adultery with the accused 4 A L J 155–1 [illegible]

2 Mere negligence is no connivance 19?6 A 169= 4 A L J 55=27 Cr L [illegible]

3 If the accused enters the house of another at night to commit adultery [illegible] he is guilty under S 451 The fact that husband was absent in the [illegible] of his occupation it may be safely presumed that he neither consented [illegible] at the adultery of the wife 1925 L 635 89 I C 319 [illegible] Cr L J [illegible] L J 266=60 I C 666

4 Husband was driven out by wife and he was supplanted by the accused [illegible] the wife lived He preferred no complaint for 15 months Held [illegible] to connivance at the adultery 1934 Sind 10 35 Cr L J 516=14 L [illegible]

5 Where the husband was unwilling to proceed to Judge [illegible] revision 5 B H C R Cr 27

Adultery—(contd.)

8. Defence—Custom.

1. Plea of ignorance of law is a good defence to a charge under S 497, I. P. C. the language of which leaves room for such admission. 1 B. 347, 6 B. 126, 1 B. 97 (116).
2. Custom that a woman can contract second marriage cannot be pleaded. 2 B.H.C. 117.

9. Essentials and evidence.

1. Adultery *per se* is no offence It must be without consent or connivance of husband. 1928 Pat. 375=111 I. C. 762=9 P. L. T. 397.
2. Mere negligence is no connivance. 1926 A. 189=27 Cr. L. J. 101=91 I. C. 533.
3. For a prosecution under S 497, marriage must be strictly proved. Mere admission of parties is insufficient. 1928 Pat. 481=112 I. C. 469, 1925 Oudh 701.
4. The evidence that both slept together for 15 days on the same bed and there was attachment is sufficient 61 I C 238=22 Cr. L. J. 382=24 P. L. R. 419.
5. Letter written by complainant's wife to accused, who did not receive it, is insufficient for conviction 1928 C 248
6. If a person convicted of an offence under S. 497 again commits adultery, he may be prosecuted again 53 B 69=1928 B 530. Rat. Un. Cr. 150.
7. Where husband omits to take any step against the accused for seven years, the offence has been condoned 1 C W N 498
8. It is not necessary to prove direct fact of adultery. Adultery can be inferred from circumstances 1928 Pat 375=111 I C 762=9 P. L. T. 397, 1935 Oudh 506, 22 Cr. L. J 382, 21 W. R. 13
9. A complaint for adultery cannot be dismissed on the ground that the husband was deserted by the wife for one year. 38 I C. 433=18 Cr. L. J. 321.
10. It is not necessary that the adulterer should know whose wife the woman is, provided he knew she was married woman. (1873) 21 W R. (Cr.) 13.
11. Where accused after abducting a married woman lived with her in adultery and subsequently remarried her, he is guilty under S 497 and Ss. 494/109. 24 A. L. J. 155 =1926 A 189=27 Cr L J 101=91 I C 533.
12. The admission of parties that they lived as man and wife leads to the inference that adultery must have been committed. (1867) 7 W. R. (Cr.) 59.
13. Sexual intercourse is necessary ingredient of the offence. 1935 Oudh 506.

10 House Trespass to commit —*See* House trespass —14

11. Marriage —*See* Enticing away married woman —19. Bigamy—16.

1. In a prosecution for adultery, marriage must be strictly proved. 1925 R. 328=94 I. C 603, 1927 Oudh 140=100 I. C 535=28 Cr. L. J. 311, 5 C. 566.
2. Mere admission of parties about the marriage is not sufficient. 1928 Pat. 481=112 I. C. 469=29 Cr. L. J 1045.
3. Mere desertion of the husband by the wife for one year does not dissolve marriage 38 I. C 433=18 Cr. L J. 321.
4. Where a man and a woman lived together as man and wife, there is a presumption that they were legally married, even though they belong to castes which ought not to intermarry The doctrine of *factum valet* applies. 1927 Rang. 261.
5. Cohabitation is not necessary to legally complete a marriage. 4. P. R. 1874.
6. Marriage cannot be proved on the presumption of marriage arising from cohabitation for a number of years. 1934 Sind 10=148 I C. 753.

12 Subsequent acts of—.

1. Evidence of acts of adultery subsequent to date of acts charged is admissible to show acts of improper familiarity. 1935 Oudh 506.
2. If a person convicted of adultery continues his adulterous intercourse, he is liable to second conviction. Rat. Un. Cr. 150.

ADVERTISEMENT—

1 Definition of—

Advertisement means a public notice or announcement of a thing *Wharton s Law Lexicon P 37*

2 Forfeiture of newspapers and books containing—*See* Forfeiture of books and newspaper

3 Of Cheating—

Puffing one s goods or exaggeration of the quality of one s goods is not indictable 29 C W N 36? 1925 C 605—86 I C 985=26 Cr L J 921

4 Of Lottery—*See* Lottery—1

5 Obscene books and paintings—*See* Obscene books—1

ADVICE—

1 Absence of legal—*See* Transfer (Grounds of)—1

2 Disclosure of—*See* Privilege

3 If abetment—*See* Abetment—6

4 Improper—by counsel *See* Legal Practitioners Act Ss 13—16

5 Right to Legal—*See* Remand—1

Accused s ould have access to legal advice even during police investigation 1930 L 945 =31 P L R 780=129 I C 481—12 L 16

ADVOCATE—*See* Counsel

ADVOCATE GENERAL—Ss 333 194 Cr P C

1 Certificate by—

If an Advocate General grants a certificate under Cl 25 Letters Patent (Madras), High Court has jurisdiction to say that such certificate is misconceived and incompetent on ground of abscence of decision on point of law 1935 M 486=58 M 523

2 Cognizance of offences on information by—S 194 Cr P C

High Court can take cognizance of offences on information by Advocate General

3 Definition of—S 304 (*a*) Cr P C

Advo ate General includes an acting Advocate General 35 M 397 1932 B 71

4 Powers of—To enter *nolle prosequi* S 333 Cr P C *See Nolle prosequi*

1 If Advocate General enters a *nolle prosequi* the accused should be discharged 2 C W N 481

2 When twice the jury was divided and the Judge did not agree with the jury, the Advocate General entered *nolle prosequi* 41 C 1072

3 An order of discharge under S 333 Cr P C is no bar to fresh proceed[illegible] taken against the accused 40 C 91

4 Though an order under S 333 does not amount to acquittal a *nolle pro*[illegible] end to indictment The prisoner cannot subsequently be proceeded [illegible] same charge 52 C 590 1925 C 902 89 I C 709=26 Cr L J 139[illegible]

5 Power to exhibit information S 194 (?) Cr P C

1 The information to the High Court by Advocate General should contain a [illegible] charge as definite and detailed as an indictment 1933 P C 124

2 Allegations as to opinion of Executive are not to be included 1933 P C [illegible]

3 Procedure under this section should not be resorted to where ordinary [illegible] adopted as in cases of perjury or conspiracy 1933 P C 124

6 Right of Pre audience

Under S 114, Government of India Act as well as under Bar Coun[illegible] cate General has a right of pre audience over all other Advocates [illegible]

AFFAIRS OF STATE—*See* Privilege—3

AFFIDAVIT S 539 A, Cr P C

Affidavit—(*contd.*)

1. By accused in transfer application. *See* Transfer.

2. By convict to get rid of conviction.

1. A person cannot tender his affidavit to get rid of conviction standing against him. 19 A. 200, 23 A. W. N. 1897, 28 A. 331.
2. Accused cannot contest the proprietary of conviction by affidavit containing matters not on record. 8 A. W. N. 1900.
3. Affidavit may be used to show want of jurisdiction in a magistrate, but not for affording material for reviewing the magistrate's decision on merits. 10 B. H. C. R. (Cr. C.) 102.

3. Contents of—.

1. If affidavit contains statement of belief on information, it must show the source of information. 90 I. C. 703, 11 B. L. R. 1298.
2. The ground of belief must be stated clearly to enable the court to judge whether it would be safe to act on the deponent's belief. 37 C. 259, 73 I. C. 721, 14 C. W. N. 153.
3. An affidavit must contain only bare facts known to the deponent. 36 A. 13.

4. Counter—

1. A counter affidavit is admissible for deciding whether complaint is sustainable. 58 C. 1211=1931 C 344=131 I. C. 262=32 Cr. L. J 674.
2. An application for the transfer of a case was put in on certain alleged facts which were denied by the other party by counter affidavit and by the statement of trying Magistrate. A complaint under S. 193, I. P. C, was lodged. Held, that it was improper on such a material although an inquiry under S. 476 was proper. 58 C. 1211=1931 C. 344=131 I. C. 262=32 Cr. L. J. 674.
3. Where an application is made for transfer of a case on the ground of partiality of a Magistrate, it is highly improper for District Magistrate to make a counter affidavit swearing as to his impartiality 25 B. 179.

5. Court before which—be sworn.

1. An application for transfer cannot be entertained if the affidavit is sworn before District Judge and not High Court. 1931 C. 710=33 Cr L. J. 61.
2. A Deputy Magistrate has no power to administer oath to a person making affidavit to be used in the High Court and such person cannot be convicted of perjury. 5 Pat. 110, 14 C. 653, 1926 Pat 214=93 I C 963=27 Cr. L. J. 499.
3. An affidavit to be used in civil courts may be sworn before any Magistrate. 8 C. W. N. 40.
4. Affidavits sworn before Presidency Magistrate, Calcutta, are not admissible in the Patna High Court. 1925 Pat. 755=92 I. C., 697=27 Cr. L. J 313.
5. An affidavit made before a Bench Magistrate in Sind is one made before a proper person. 1927 Sind 128=99 I. C. 600=28 Cr. L. J 168.

6. False.—*See* False evidence.—3. False information.—1.

7. Prosecution for False Affidavit.

1. Accused can be prosecuted for false affidavit in support of application for transfer. 6 L. 34, 3 L. 46, 1925 L. 12 89 I. C. 457, 23 Cr. L. J. 133, 108 I. C. 124, 55 A. 114. 33 A. 163 no longer good law.
2. Where an accused handed over an affidavit containing false allegations to his pleader, who filed it in court, he was not guilty under S. 182, as it was open to him to instruct his counsel not to file it. 1925 M. 123=83 I. C. 343=25 Cr. L. J. 1383.

8. Reading over—

Affidavit must be read over to the deponent. 36 A. 13

9. What is—

Affidavit is a written statement sworn before a person having authority to administer an oath. *Wharton's Law Lexicon, P. 41.*

AFFIRMATION—*See* Oaths Act—

Affirmation is a solemn declaration without oath *Wharton's Law Lexicon P 42*

AFFRAY—Ss 159, 160 I P C

1 Essential and Evidence

1 Disturbance of the public peace is the essence of the offence Where a Station Master and a Railway peon fought on a Railway platform when a goods train was in the station, held it is a case of ordinary assault 1883 A W N 197

2 The evidence required to prove affray must prove (*a*) that there was fight (*b*) that it was in a public place and that (*c*) it led to the breach of the public peace Parties fighting over their right to fish in a place are guilty of affray 21 C 392

3 Accused was quarrelling in a public street and no blows were exchanged when police interfered Held it is not affray 1928 L 813 116 I C 810

4 Prosecution should not lodge complaint simply for exchange of abuse in a public place 1926 L 412=94 I C 888=27 P L R 176

5 If one attacks and the other defends the case comes under S 159 The gist of the offence consists in the terror it causes to the public 53 A 229=1931 A 8

6 For a charge under S 160 there must be two or more persons concerned 1933 M 843

2 Procedure

1 Alteration of conviction under Ss 147 323 Penal Code into one under S 160 is not justified 47 M 61 1924 M 375 81 I C 42

2 Accused discharged under S 152 can be charged under S 160 1933 Sind 173

3 A person charged under S *325 and acquitted of the charge cannot be convicted* under S 160 without first charge being framed 1933 M 843=33 Cr L J 76

4 In affray or party faction cases the members of each faction should be tried saparately They can give evidence against their opponents but cannot be compelled to do so on the ground of implicating himself *1 N W P H C R 293*

5 Where L and M after abuse came to blows while others also joined and M dies of injuries Held L is guilty under S 160 32 P W R 1912 Cr

6 Acquittal under S 160 does not bar prosecution under S 323 1936 P 503=37 Cr L J 785 1925 A 299 Rel on 1921 P 22 and 1930 P 26 Expl

3 Public Place *See Public Gambling Act S 13*

A private *chabutra* (platform) adjoining a public thoroughfare is not a public place although it is exposed to public view unless public had right of access to it 17 A 166

AGE

1 Birth certificate in Municipal register—S 35 Evidence Act

1 A certificate of birth of a person is conclusive evidence of his age unless disproved by the evidence of the party denying its correctness 1935 Pat 474

2 A register of birth kept by a *chaukidar* or *topidar* or a village munsif or in a police station is an official register 1933 Pat 473 54 I C 166=21 Cr L J 22 52 I C 167 35 I C 551 1926 M 985 1925 M 1005 46 C 152 46 A 637

3 An entry as to date of birth a person made in the register of a *chaukidar* is admissible even if the entry was not made by the *chaukidar* himself but at his instance by *Daffadar* provided the *Daffadar* has been called to prove the entry 1933 Pat 473 46 A 637 41 M 76 54 I C 166

4 An entry in a Municipal register of births and deaths is admissible 59 P R 1901, 1934 Oudh 167

5 Certified copies of registers of births and deaths are admissible *46 C 152 46 A* 637 1926 M 985=95 I C 1005 59 P R 1901

6 A register of births and deaths kept in police station is a public document 46 C 152 but not a *chaukidar's* register of births and deaths 36 I C 541

7 Birth register is to be preferred to guardianship certificate for determining date of birth 1933 A 100=54 A 1019

Age—(contd.)

2. Certificate of doctor as to—.

Certificate of doctor as to age is valueless 21 C. W. N. 257 (P. C.).

3. Consideration of—in punishment *See* Sentence—2, Murder—8.

4. Data for determining.—Of child or young person.

1. The chief data for estimating age of an individual are—(1) the teeth (2) height and weight (3) some minor sings and extent of ossification. (4) The age of living can only be estimated with any degree of certainty in the young. After adult life is reached, the age can only be guessed at approximately, in the absence of a regular certificate of birth or a horoscope. *Lyon's Med Jur. 1901, Pp. 34 35.*

2. As regards the age of child, a medical man has no advantage over a layman A mother will be better authority than a Doctor. *Lyon's Med. Jur. 1935, P. 83.*

3 In determining age by physical signs, a wide margin must be admitted. 1934 Sind 119=150 I. C. 984

4 If there is a difference of 2 or 3 years only it is impossible for a medical man in a rape case on an ordinary inspection to state with any degree of certainty the exact age of a person A. L. R 1932 L. 440=1932 P. C. L. 440 Cr.

5. The evidence of Indian witnesses on question of age is notoriously often very vague and unreliable 1935 P C. 199

(A) By Teeth —

1. Teeth yield indications of age up till the thirteenth or fourteenth year, and with the 'wisdom' teeth up to the eighteenth year. Permanant teeth are 32 in number, 16 in each jaw.—.

2. Generally a child of nine should have twelve permanent teeth; at ten or eleven 24; at thirteen or fourteen it will have 28 *Lyon's Med Jur. Ed. 1935, P. 84.*

3. Dr. Powell notes "I have seen *wisdom teeth* in Hindu children aged 13 2/12, 13 4/12 and 13 9/12. A few extraordinary irregularities may be found, but such freaks do not invalidate the general rules I have known European cut a wisdom tooth at thirty-six. *Lyon's Med. Jur. 1904, P. 36.*

4. In the absence of documentary proof the estimation of the age of *living* child must be a very loose one until it arrives at the time when dentition commences. *Taylor's Med. Jur. 1928, Vol. I, P. 166.*

5. The indication afforded by the wisdom teeth is notoriously untrustworthy. 1934 Sind 119=150 I. C 984.

(B) By height and weight

1. The ratio between these is too variable for any formula to be of much value The average weight of Indian children at birth has been estimated at 5 lbs, that of English children at 6½ lbs., and during the first year after birth about one pound is gained each month *Lyon's Med. Jur 1901, P 37.*

2 On the average a child should measure about two feet high by the end of the first year, and should weigh about twenty pounds, with proportionate increase from birth upwards *Taylor's Med. Jur. 1928, Vol. I, P. 166*

(C). Hair on Pubes and arm pits, etc

1. This growth begins about ten or eleven years of age and in boys is attended about fifteen to eighteen by deepening of voice. *Lyon's Med. Jur. 1901, P. 39, Taylor's Med. Jur. 1928, Vol I, P. 168.*

2 In the male downy hair begins to appear on the upper lip and chin at about the age of fifteen or sixteen. *Lyon's Med Jur. 1935, P. 87.*

(D) Breast development

1. The breast development in girls varies greatly in time The average age of puberty is twelve to thirteen But even women of twenty sometimes have not menstruated *Lyon's Med. Jur. 1901, P. 39.*

2 The development of breasts in girls is very vague and liable to be altered by loose habits. *Taylor's Med. Jur. 1928, Vol. I, P. 169.*

Age—(contd.)

3. It is a mistake to think that development of breast is a sign that menstruation has been established. *Lyon's Med. Jur. 1935, P. 87.*

(E). By ossification.

1. Besides the dentition and bright weight, it is possible to make more extensive use also of that other precise criterion of age, namely, the progress of ossification. For table regarding points of ossification by Ogston *See Lyon's Med. Jur. Ed. 1904, P. 41, and Taylor's Med. Jur. 1928, P. 167.*

2. Ossification is less easily and certainly observable in the living than in the dead, the *Roentgen rays* enable it to be observed in the former. *Lyon's Med. Jur. Ed 1904 P. 41, Lyon's Med. Jur. Ed. 1935, P. 85.*

(F) By Menstruation.

Among eastern races manstruation occurs at the age of twelve or thirteen, among Europeans about thirteen or fourteen. In exceptional cases the menstrual flow may be established at an earlier age or may not occur till 20 years of age It is a mistake to think that development of breasts is a sign that menstruation has been established. *Lyon's Med Jur. 1935 P. 87.*

(G). By X ray.

Union of Bones and Epiphyses.

By 1½	years	the anterior fontanlles should be closed
,, 9	,,	the illium, pubes, and ischium should meet in the acetabulum.
,, 13	,,	these three should be united but still separable on maciration.
,, 15	,,	the coracoid should be united to the scapula.
,, 16	,,	the olecranon should be united to the ulna.
,, 16 17	,,	the head of the radius and the lower end of the humerus should be joined to their respective shafts
,, 17 18	,,	the internal epicondyle should be united to humerus.
,, 18 20	,,	the head of the fermur should have joined the diaphysis

If all the epiphyses are found united, the individual is certainly over 25 years of age The age can be accurately determined by X-Ray *Taylor s Med. Jur. 1928 Vol. P. 168*

(H). By Wisdom Tooth.—*See*—A.

The indication afforded by wisdom teeth is notoriously untrustworthy 1934 Sind 119

5. Entries in Hospital Register—Certificate. S. 35 Evidence Act

1. Entries in the Prescription Register of a Government Dispensary are admissible under S. 35 Evidence Act. 1927 Oudh 310=103 I C 512.

2. An entry as to age of a person an inoculation or vaccination register is relevant under S. 35. 1934 C. 766

3. A certificate as to age of a private patient does not fall within the terms of S 35 Evidence Act. 33 I. C. 142

6. Entries in Panda's or Bhat's Register about—S 32 (5) Evidence Act

1. Bhats are heralds who are interested in keeping family record which is evidence if it comes from proper custody 25 C W. N. 908=66 I C. 894

2. Books maintained by various members of a family of hereditary bards and containing entries of domestic events relating to the family, is admissible 46 A 665.

3. But when such entries are on leaflets of different sizes and stitched books containing blank pages, they *must be taken with great caution. 1930 L 759, 15 I. C. 625,* 30 A. 510, 89 I. C. 898.

4. Papers, books and statements of family priest are admissible 6 L. L. J. 550.

6-A. Evidence of.

1. A man connot give direct evidence o his age, but his statement cannot be dismissed as of no value. 63 I. C. 525, 86 P. W. R. 1910 C

Age—(contd.)

supplied by the deceased father of the boy, is admissible in evidence under S. 32 (5). 1935 Oudh 41, 1929 Oudh 113=114 I. C. 801.

5. Entries in school registers are of little value as evidence of age. 1936 L. 598.

12. Statement of deceased persons as to.—S. 32 (5), Evidence Act.

1. Statements written or verbel made by a person who is dead or who cannot be found or has become incapable of evidence are admissible when they relate to existence of relationship. S. 32 (5) Evidence Act.

2. Statements made by the relatives of the person, who were since deceased, relating to the date of birth of that person are admissible in evidence under S. 32 (5). 20 C. 758, 13 Q. B. D. 818 not foll.

3. A statement contained in petition under the Guardians and Wards Act, (VIII of 1890) as to the age of person by his deceased aunt of her appointment as guardian is admissible. 19 C. W. N. 646=28 I. C. 595, 20 C. 758 foll. But *see* 1924 C. 525, 12 L. 336.

4. The plaint in a former suit verified by a deceased member of the family, was admitted under S. 32, (5) to prove the order in which certain persons were born and their ages. 24 C. 265=1 C. W. N. 270, 8 Oudh C. 94.

5. A statement made by a sister about the age was admissible. 25 M. 183, 8 Oudh C. 94, 9 M. L. T. 220.

6. If the person making the application for guardianship is alive, the statement in the petition will not be admissible. 1924 Oudh 525, 28 I. C. 595, 66 I. C. 433.

13. Statement of a person about his.—

1. Statement as to the date of birth of a person contained in his deposition and in affidavits by him are admissible under S. 21 (1) read with Cl. 5 of S. 32, if made by a person having special means of knowledge, whether personal or hearsay. 33 I. C. 969.

2. A man can not give direct evidence of his age, but his statements on the subject are not to be dismissed as of no value. 63 I. C. 525, 86 P. W. R. 1910 Cr.

AGENT. *See* Breach of trust—7 cheating—compounding.—2.

Master is not criminally liable for the criminal acts of his agent. 19 C. W. N 1239. *See* 23 B. 423.

AGENT PROVOCATEUR.

The evidence of *agent provocateur* is looked upon with suspicion and should be seldom, if ever relied upon in support of conviction. 1929 L. 436=30 P. L. 603.

AGITATED STATE OF MIND

The fact that accused was in agitated state of mind, soon after the crime and pointed out places where weapons were concealed, makes the crime highly probable. 1925 M. 574 (2)=26 Cr. L. J. 840.

AGGRIEVED PARTY. *See* Compounding—3. Defamation.—7.

AGREEMENT.

1. To pay maintenance. *See* Maintenance.—2.

2. To refund embezzled money. *See* Breach of trust —4.

AID.—*See* Abetment.

AID TO POLICE OFFICER OR MAGISTRATE. Ss. 42-43, Cr. P. C., S. 187, I. P. C

1. No person is bound to obey an unreasonable order of a magistrate or police officer. A magistrate ordered a landholder to find the clue of theft within 15 days. Held, it is an illegal order and its disobedience is not punishable. 3 A. 201, 7 C. L. R. 575.

. The law does not intend that police officers should have a general power of calling upon members of public to join them in arresting a number of unknown persons whose whereabouts are not known. 42 A. 314.

3. Aid means personal aid and not a supply of contingent of men to assist. 2 Weir 37.

Aid to Police Officer or Magistrate—(*contd.*)

4. Person arrested by police was lying down on the ground and refused to move. Police asked the assistance of accused but he expressed sympathy with the arrested person. Held, he was guilty under S. 187, I. P. C. read with S. 42, Cr. P. C. 1932 A. 506=139 I. C. 106=33 Cr. L. J. 736.

5. A. refused to answer question put by Police under S. 161, Cr. P. C., is not punishable under S. 187. 23 M. 544, 27 P. R. 1908 Cr.

ALCOHOL.—*See* Drunkenness.

1. Analysis of.

Ethyal alcohol is produced by the fermenting action of yeast on sugar, and is concentrated by distillation.—*Taylor's Med. Jur. 1928, Vol. II.*, P. 621.

2. Percentage of—in whisky, etc.

Percentage of spirit in whisky, brandy and rum is fixed by law at 25 per cent. under proof=36 per cent.

Port, Sherry and Madeira ...	about 15 per cent.
Claret, Burgandy, and similar red wines .	10 „
Grave, chablis, and similar white wines .	„ 8 „
Bear and stout ...	„ 3 to 6 „

Taylor's Med. Jur, 1928, P. 621. Lyon's Med, Jur. 1935, P. 624.

3. Effect of Alcohol—Drunkenness—symptoms of.

1. The absorption of alcohal is very rapid, and it can be detected in the blood within a few minutes . It is most rapid when taken on an empty stomach, but is delayed if food is present, and particularly when a fatty substance is present in the food. *Taylor's Med. Jur. 1928, Vol II, Pp. 622 623.*

2. The concentration in the blood reaches its maximum in half an hour to two hours, and gradually diminishes until it is completely lost in about twenty hours. *Ibid.*

3. We may take it approximately correct that when the percentage in the blood reaches the neighbourhood of 0 2 per cent. the patient will be distinctly affected by alcohol, when it reaches a point between 0·2 and 0 4 per cent. he will probably be drunk, and that when a concentration of about 0·6 per cent is reached there is distinct danger of death. *Ibid.*

4. There is a distinct difference in the effect of alcohol on different individuals and on the same individual at different times. *Ibid.*

5. In the early stages where there is a simple loss of control, no precise diagnosis is possible. His conduct would be abnormal. *Ibid.*

6. In a more advanced stage there may be obvious signs of alcoholism. The breath smells of drink. The face may be flushed and the pupils slightly dilated....Indistinctness in speech may be noted, varying with the stage of intoxication and with the individual. Hiccup may be present. *Ibid.*

7. The examination of urine will prove whether a person is intoxicated by alcohol. *Ibid.*

8. There is first a feeling of well being and a certain slight excitation. The actions, speech and emotions are less restrained, due to a lowering of the inhibition normally exercised by the higher centres of the brain. *Ibid.*

4. Poisoning by.—Post Mortem.

1. Cases of alcohol poisoniug are usually accidental. *Ibid.*

2. Alcohol may act as a poison by its *vapour*. If the concentrated vapour be respired it will produce the usual effects of intoxication. *Taylor's Med. Jur., 1928, Vol. II. P. 629*

3. The *post mortem* appearance in case of alcohol poisoning will be as follows :—The stomach would be found intensely congested or inflamed, the mucous membrane presenting in one case a bright red, and in another a dark red-brown colour. The brain and its membranes are found congested and in some instances there is an effusion of blood or serum beneath the inner membrane. *Ibid.*

Alibi—(contd)

4. The action of a strong alcoholic liquid on the mucus membranes of the stomach so closely resembles the effect produced by arsenic and other irritants as easily to give rise to the suspicion of mineral irritant poisoning. *Ibid.*

5. Putrefaction.

The bodies of chronic alcoholics undoubtedly have a tendency to repid putrefaction. *Taylor's Med. Jur., 1928, Vol. II, P. 255.*

ALIBI.

1. It is open to accused to plead alibi and alternatively right of private defence. 40 A. 284, 52 I. C. 4.
2. False plea of alibi is not sufficient evidence of guilt of accused. 57 P. R. 1866 Cr., 22 P. R. 1868 Cr., 1925 L 42=84 I. C. 937=26 Cr. L. J. 393.
3. Alibi pleaded and not proved does not give rise to any presumption of crime. 25 C. W. N. 682, 1921 C. 252=23 Cr. L. J. 244=66 I. C. 80.
4. The burden of proving alibi is on accused. It is not incumbent on prosecution to prove the negative 83 I. C. 513.
5. If the oral evidence of alibi is not supported by any documentary evidence and witresses are not persons who would remember the date precisely, such an evidence is easily obtainable in this country. 1923 L. 232=25 Cr L. J. 811.
6. Alibi evidence should be scrutinized very carefully. It is easy to set up alibi, though difficult to prove it. 1928 M 791=110 I. C. 461=29 Cr. L. J 717.
7. In case of alibi accused must give explanation of the occurrence. 1923 Oudh 217.
8. Innocent persons not unusually raise false plea of alibi. 22 P. R. 1888 Cr.
9. If accused does not disclose his exact defence in committing Magistrate's Court or in Sessions Court but sets up alibi a certain presumption arises against him as to his guilt 1929 Nag. 36=112 I. C. 51=29 Cr. L. J. 963.
10. An attempt to fabricate false evidence of alibi raises adverse presumption. 1925 L 323 *Cont*, 1925 L 42=84 I. C. 937=26 Cr. L J. 893.
11. If evidence of alibi was clearly in the mind of the Judge such absence of finding on the fact is immaterial. 1929 Pat 231=30 Cr. L J. 1070=119 I. C. 560.
12. In murder cases, witnesses supporting plea of alibi must be produced. Whether such witnesses are reliable or not, is to be decided by the court and not the prosecution 1934 A. 908.
13. Alibi evidence is generally to be viewed with suspicion. 1935 L. 230=35 Cr. L J.1180
14. Witnesses to prove alibi must be called by the accused who takes such defence Such evidence must be tested by cross examination by the Crown. 1935 C. 513
15. If most important and conclusive evidence of alibi is not produced by accused or his relatives at once and is concealed up to Sessions trial, it creates suspicions that it is forged one. 1934 A. 27=56 A. 354.
16. When accused pleads alibi and he is found guilty of having committed the offence on date other than that entered in the charge sheet, the conviction is not legal. 1934 L. 455.
17. If the defence of alibi breaks down, it is a strong inference that in all probability he was where the prosecution say he was 1934 C 719=151 I. C 473
18. If an over zealous relation attempts to establish alibi, it is no ground for concluding that accused is guilty. 1933 Oudh 432=147 I. C. 113.
19. An alibi will receive most credence if raised at the earliest possible moment. (1931) 23 C. A. R. 56 reported in A. I. R. 1933 Journal 119 (120), 56 A. 354.
20. Prosecution should not be allowed to call witnesses to contradict alibi witnesses. (1928) 21 C. A. R. 3 and (1927) 2 K. B. 587. Reported in A. I. R. 1933 Journal 119 (120).
21. The fact that accused made efforts to concoct false evidence of alibi is relevant as

Alibi—(contd)

conduct and good presumptive evidence against the accused 1925 L 323=26 Cr L J 760 *Wills Cir Ev Ind Ed 193* 68 P R 1866

22 There have been cases where innocence under pressure of menacing appearances has fatally committed itself by the simulation of facts for the purpose of evading the force of circumstances of apparent suspicion *Wills Cir Ev Ind Ed P. 194*

ALLEGATIONS *See* Bribe—4 Defamation —20

1 Allegations made by one party and not denied by the other must be presumed to be correct 12 L 623=1931 L 473=32 Cr L J 909

2. Allegation is an asserted fact the adduction of reason or witnesses in support of an argument *Wharton s Law Lexicon P 49*

ALLEGED EYE WITNESS —*See* Eye witness

ALLUREMENT —*See* Enticing away married woman —2

ALTERATION

1 **Of charge** —*See* Charge —2

2 **Of conviction** —*See* Appeal —15

3 **Of date of hearing** —*See* Adjournment date of hearing

4 **Of date of document** —*See* Fabricating false evidence —2

5 **Of document** —*See* Forgery —2

6 **Of finding** —*See* Appeal —15 Revision

7 **Relevancy of—of document, as conduct—**

Attempting to alter a document to fit in with one s defence is relevant as conduct under S 8 Ev Act 1934 L 695=35 P L R 738

ALTERCATION BETWEEN JUDGE AND COUNSEL —*See* Transfer (Grounds)

ALTERNATIVE CHARGE —*See* Charge —4

ALTERNATIVE FINDING —*See* Appeal—14

ALTERNATIVE SENTENCE —*See* Sentence —5

AMENDMENT OF CHARGE —*See* Charge —5

AMMUNITION —*See* Arms Act

ANIMAL —*See* Bull

1 **Biting by dog** —*See* Hurt —3

2 **Bull set at large** —*See* Criminal misappropriation —2 Bull

3 **Killing or maiming domestic** —S 429 *See* Mischief —9

4 **Negligent conduct with regard to** —S 289 I P C See Public Nuisance —2

5 **Straying of** —*See* Criminal misappropriation 20 Mischief —21

6 **Trespass by** —*See* Cattle Trespass Act Mischief

ANONYMOUS LETTER

Anonymous letter is no evidence of its contents 1925 M 879=91 I C 50

ANTEDATING DOCUMENT —*See* Forgery

Antedating a document to support a plea of alibi is relevant as conduct under S 8 Ev Act 13 M 426 (432)

ANTICIPATING DEFENCE —*See* Defence—1

APOLOGY —*See* Contempt of Court —1

1 The tender of apology should not be treated as evidence of accused s g[illegible] 142=17 Cr L J 462

2 An offence under S 504, Penal Code can be atoned for by on apo[illegible] R 1911 Cr

APOSTASY —*See* Bigamy —3, 4, 5

APPPEAL.—S. 423, Cr. P C.

1. Abatement of.—S. 431, Cr. P. C.—*See* Abatement.

2. Acquittal without—

1. Acquittal without appeal is not competent while enhancing sentence of co accused 5 P. R. 1869.
2. High Court has power to acquit without appeal. 14 P. W. R. 1909.
3. Where the grounds are common to acquitted appellants and non-appealing accused, the case of the latter can be considered under Revisional powers. 6 P. R. 1867, 71 P. R. 1866.
4. Where in a trial, the magistrate took action against one of the accused under S. 562 and sentenced the others to imprisonment, the sentences were set aside in revision on the ground that trial was illegal. Held, that conviction under S. 562, Cr. P. C. could not be said to have been automatically set aside. 1931 L. 199=32 Cr. L. J. 731

3. Additional evidence on.—Ss 428, 375, Cr. P. C.

1. The Appellate Court may take further evidence but cannot direct further enquiry. 67 I. C. 498=23 Cr. L. J. 402=12 A. L. J. 961, 4 P. 204.
2. Appellate Court can record additional evidence in case of appeal against an order for compensation. 1930 M. 483=123 I. C. 809=31 Cr. L. J. 602=53 M. 688.
3. The evidence of co-accused as witness ought not to be recorded by the appellate Court although he has not appealed. 7 L. 148=1926 L. 309=27 Cr. L. J. 463.
4. According to S. 375, Cr. P. C., additional evidence may be taken upon any point bearing upon the guilt or innocence of accused. 1925. M. 106, 1928 M. 1174.
5. When the medical evidence was not given *viva voce* before Jury, High Court declined to take his evidence under S. 428. 56 C. 566=1929 C. 244=119 I. C. 378.
6. Appellate Court cannot send under S. 428 a case to police for investigation. 1900 A. W. N. 130.
7. When the lower Court refused to examine certain witnesses for defence and the accused was prejudiced, additional evidence may be taken by the appellate Court. 19. M. 375.
8. The object of S. 428 is the attainment of justice even at the late stage. 1925 Pat. 526=88 I. C. 595, 7.L. 148=1926 L. 309=27 Cr. L. J. 463.
9. The Court of Revision will not interfere with an order of appellate Court allowing additional evidence. 88 I. C, 595=1925 Pat. 526=26 Cr. L. J. 1171.
10. The accused need not be examined under S. 342, Cr. P. C., after the additional evidence. 52 B. 699=1928 B. 200, 86 I. C. 459=1925 Pat. 414=26 Cr. L. J. 811.
11. Where the report about the contents of a bottle containing cocaine was vague, the appellate court ordered the examination of Excise Analyst as witness. 52 B. 686.
12. Appellate Court will take additional evidence to supply a defect in formal proof, *e. g.*, to see if sanction for prosecution was granted by the proper authority. 42 M. 885.
13. Before taking additional evidence, court must record reasons. 42 M. 885, 7 L. 148.
14. Omission to record reasons is not fatal if accused is not prejudiced. 1930 M. 483=123 I. C. 809=53 M. 688=31 Cr. L. J. 602, 12 Cr. L. J. 240.
15. High Court has power under S. 307 read with S. 428 to call further evidence. 56 C. 566=1929 C. 244=119 I. C. 378=30 Cr. L. J. 1031.
16. If Sessions Judge thinks that evidence of some more witnesses is necessary, he may order additional evidence 31 C. 710.
17. When there was some doubt as to the truth of identification and though the deceased was alleged to have mentioned the name of the accused to Karnam, the latter was only examined in the committing Magistrate's Court and not in the Sessions Court, the High Court directed the Sessions Judge to examine the Karnam as a Court witness. 1931 M. W. N. 731.

Appeal—(contd)

18 The Appellate Court acting under S 476 B has inherent jurisdiction to take additional evidence 1931 Sind 115=134 I C 1007=33 Cr L J 41, 44 M 47=1921 M 453=29 Cr L J 372 foll 51 M 603 not foll

19 Irrespective of whether the trial Court be civil criminal or revenue, the proceedings on appeal under S 476 B is proceeding under the Criminal Procedure Code The appellate Court cannot make a remand to the trial Court but it can itself make an inquiry, when the inquiry by the lower Court is defective It cannot take additional evidence under S 428 as that section is specially limited to appeals under the chapter in which it occurs 1931 L 761=135 I C 594=1931 Cr C 1065

20 When first information report was not placed before the Court and the accused came to know of it at a later stage additional evidence should be allowed by the appellate court 1935 A 63=152 I C 550=36 Cr L J 117

21 The Sessions Judge has no power to order a re trial with the condition that evidence already on the record should be considered The proper course would be to take additional evidence under S 428 (1) 1935 Nag 125 (2)=36 Cr L J 740

22 S 428 cannot be invoked to cure an illegality e g disregard of the provisions of S 256 or S 162 Cr P C 53 B 378=1929 B 309 1935 Sind 145 (179)

23 If the prosecution did not choose to examine certain eye witnesses the Appellate Court should not fill up the gap by summoning such witness 1935 Oudh 402

24 When a Sessions Judge hears an appeal against the order of Additional Sessions Judge who had decided the case with the aid of assessors or Jurors he cannot take additional evidence It is inadmissible and conviction is illegal 1935 Oudh 402=36 Cr L J 844 15 A 136 and 43 A 125 Rel on 47 I C 274=19 Cr L J 902 Dist

25 A District Magistrate under S 428 can order the taking of formal evidence, by lower court, in proof of a document but cannot order to hear other evidence to 'complete the inquiry 1934 L 316=35 Cr L J 1166

4 Adjournment of —Cost—

S 344 does not apply to appeals and therefore they cannot be adjourned by awarding costs The order of cost is *ultra vires* 29 P R 1919 Cr 1933 M W N 878

5 Against Acquittal *See* Acquittal—2

6 Against attachment order under S 89.—S 405 Cr P C

1 Court to which appeal ordinarily lie means Court to which appeals in majority of cases lie even though in a particular instances the appeal may lie to another Court 11 B 438 22 C 487 32 P R 1919

2 A subordinate Court getting delegated process is not— 26 M 656 27 M 124

7 Against an order requiring security under S 107—110 —S 406 Cr P C *See* security for good behaviour—2

1 An appeal lies to the District Magistrate from an order of good behaviour passed by an Additional District Magistrate 48 C 874=1921 C 347

2 In case of appeal under S 406 from an order under S 107 Cr P C the appellate Court can order retrial 48 A 501=1926 A 403=27 Cr L J 945

3 An appeal from an order under S 118 passed by Additional District Magistrate lies to the District Magistrate and not the Sessions Judge 32 P L R 453

4 If the accused is bound over on his own plea of guilty there is no right of appeal 134 I C 379=1931 Sind 151=25 S L R 337=32 Cr L J 1142

8 Against an order of first class Magistrate —S 408 Cr P C

1 If some accused are sentenced to less than four years and some to more than four years the appeal of all the accused lies to High Court even if the accused who got more than four years do not choose to appeal 1926 A 160=91 I C 959=27 Cr L J 175 37 A 471 12 P R 1900 5 P R 1916 Cr 17 Cr L J 299, 11 Bom L R 544, 161 P L R 1911=12 Cr L J 236

2 When two sentences of fine exceeding in the aggregate fifty rupees are passed by a Magistrate the appeal would lie to the Court of Sessions 1926 B 416=27 Cr L J 926=28 B L R 668=96 I C 270

3 An appeal lies under S 408 from an order passed under S 562 (1) Cr P C 2 P R 1904, 1926 B 382 1925 C 329 37 A 31, 46 A 825=1924 A 765

Appeal—(contd.)

4. Where a case is referred to District Magistrate under S. 349, Cr. P. C., he cannot award five years' imprisonment and even if he does so, the appeal lies to the Sessions Judge. 4 L. B. R. 53=6 Cr. L. J. 289.

5. An order awarding compensation and repayment of fine under 22, Cattle Trespass Act, is appealable under S. 408 and the restrictive provisions of S. 413 are not applicable. 46 B. 58, 1931 C. 642=33 Cr. L. J. 90=59 C. 19.

6. Under S. 35 (3), Cr. P. C., concurrent sentences cannot be aggregated together for the purpose of raising the status of the form of appeal. 3 P. L. J. 138, 35 A. 154.

7. If a first class Magistrate with S. 30 powers awards a sentence of imprisonment for more than four years, the appeal lies to High Court. 5 P. R. 1916 Cr.

8. If appeal is presented to the Sessions Court instead of High Court and the Sessions Judge disposes of the appeal, his proceedings are void. 1925 Rang. 39.

9. Where an accused was sentenced by a District Magistrate under S. 124-A., I. P. C, to two years and under S. 153-A. to one year the appeal lies to High Court for both the sentences. 38 C. 214.

10. Where a Magistrate who begins as a second class Magistrate and completes the case as a first class Magistrate, passes a higher sentence in the latter capacity, the appeal lies to the Sessions Judge and not the District Magistrate. 1927 L. 138=99 I. C. 82=28 Cr. L. J. 50, 1925 Pat. 472=26 Cr. L. J. 914.

11. The moment a second class Magistrate is invested with first class powers, any convictions by him as a second class Magistrate would be convictions as a first class Magistrate and an appeal would lie to the Court of Sessions. 51 M. 257=1928 M. 55=53 M. L. J. 733=26 M. L. W. 685=29 Cr. L. J. 71=106 I. C. 583.

12. Where accused was sentenced under Ss. 376-366, I. P. C., to less than four years but the aggregate of the two exceeded that term, the appeal lay to the High Court, when sentences were to run consecutively. 1930 A. L. J. 1206.

13. If the total term of imprisonment does not exceed four years the appeal lies to the Court of Sessions and the other concurrent sentences of lesser period need not be considered by the Sessions Judge. 1927 N. 255=28 Cr. L. J. 672, 1921 C. 152.

14. A Court of Sessions in Baluchistan has same powers over European British subjects and other persons as are held by Court of Sessions in British India and therefore can hear appeals as prescribed by Cr. P. Code. 1929 L. 187=118 I. C. 438=30 Cr. L. J. 918, 5. P. R. 1907 Cr.=41 P. L. R. 1907=26 P. W. R. 1907.

15. Sentence of four years' imprisonment means substantive sentence of four years and does not include imprisonment in default of payment of fine. 19 P. R. 1918 Cr.

16. Where a person was charged with infringement of an order under S. 8 of the Ordinance III of 1914 and a regular trial was held by District Magistrate, the appeal lies to the Sessions Judge under S. 408. 10 P. R. 1916 Cr.

17. Appeal from an order directing accused to be detained in a Borstal School for a period of 5 years lies to the Court of Sessions. 1936 Rang. 229.

9. Against order of 1st Class Magistrate when does not lie.—Ss. 413-415, Cr. P. C.

1. Where a Magistrate passes two separate sentences of fine of Rs. 40 on the accused, the aggregate of sentences may be added together to save the right of appeal 134 I. C. 1196=35 C. W. N. 752=1931 C. 642=33 Cr. L. J. 90, 1 B. 223.

2. If two sentences are passed on accused one for Rs. 20 and the other for Rs. 15, no appeal lies. 36 C. W N 407=1932 C. 551=33 Cr. L. J. 704.

3. Where a Magistrate passed a non-appealable sentence, but at the request of the accused enhanced the sentence to make it appealable, the Sessions Judge is bound to hear the appeal, although sentence was illegal. 35 B. 418.

4. In case of two sentences of fine, aggregate is to be looked into for determining right of appeal. 1932 C. 551, 1926 C. 895 foll. 1931 C. 642 Dist.

5. Accused were fined under Ss. 323-427, I. P. C. Sessions Judge held that no appeal was competent. High Court refused to interfere. 1935 A. 630=157 I. C. 123.

10. Against order of Assistant Sessions Judge—S. 408, Cr. P. C.

1. Two accused were tried by Assistant Sessions Judge and one of them was sentenced to

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three years' and the other to seven years' rigorous imprisonment, the appeal lies to the High Court and not the Sessions Judge. 1931 M. W. N. 1068.

2. When an Assistant Sessions Judge or S. 30 Magistrate passes several sentences of imprisonments each of which is for a term of four years or less and sentences are ordered to run concurrently, the appeals lie to the Sessions Court and not the High Court. 34 I. C. 986=17 Cr. L. J. 266, 25 P. R. 1901 Cr., 35 A. 154.

3. If an Assistant Sessions Judge awards less than four years, the appeal lies to Sessions Judge. The mere fact that before an appeal is filed he becomes officiating Sessions Judge the appeal does not lie to High Court. 44 I. C. 970=19 Cr. L. J. 942.

11. Against Plea of guilty.—S. 412, Cr. P. C.

1. If accused pleads guilty he can only question the legality or extent of the sentence. 56 I. C. 851=31 C. L. J. 122, 5 B. 85.

2. Conviction of accused on the plea of guilty does not bar an appeal on the point of legality of the conviction. 1927 B. 67=97 I. C. 668=27 Cr. L. J. 1148.

3. Where a charge is framed against an accused and he has pleaded guilty to the charge that he is a previous convict, the Appellate Court is precluded from opening the question under S. 412, whether accused is previous convict or not. 9 Cr. L. J. 56.

4. In order to consider the legality of the sentence, the appellate Court may satisfy itself that the plea of guilty was properly taken after nature of offence was explained to and understood by the prisoner. 22 B. 759.

5. Where no sentence is passed, *e g.*, when accused on the plea of guilty was released under S. 562, Cr. P. C., the right to appeal is absolutely barred. 20 P. R. 1917, Cr.

6. The High Court in revision is not bound by S. 412, Cr P. C., but may examine the record for the purpose of seeing whether the plea was based on proper conception of the facts. 1930 Rang. 349=128 I. C. 845=1930 Cr. C. 1177.

7. If an accused plead guilty to a charge under S. 380, I. P. C, under an erroneous conception of one's right in the property, S. 412 is inapplicable and his right of appeal is not shut out. 53 A. 437=1931 A. 265=130 I. C. 693=32 Cr. L J. 576.

8. If an accused is bound over on his own plea of guilty he has no right of appeal as binding over is not sentence. 134 I. C. 379=32 Cr. L. J. 1142=1931 S. 151.

9. A plea of guilt based on mistake of law will not be accepted, the magistrate must try him on merit. If the Court in revision holds that a plea of guilty should not have been recorded, retrial should be ordered. 31 Cr. L. J. 122=20 Cr. L. J. 547.

10. Accused is entitled to appeal against his conviction and sentence notwithstanding his plea of guilty, when notice of enhancement of sentence has been issued to him. 1935 Rang. 49=12 Rang. 616=36 Cr L. J. 336=153 I. C. 390.

12. Against sentence of Court of Sessions.—S. 410, Cr. P. C.

1. S. 410 confers right of appeal to the High Court to a person convicted on a trial held by the Sessions Judge or an Additional Sessions Judge. 1891 A. W. N. 48.

2. If Sessions Judge imposes a fine for intentional insult to him in Court, in a summary way, the accused is said to be convicted on a trial and the appeal lies to the High Court. 4 M. H. C. R. 146.

13. Against sentence passed by Presidency Magistrate—S 411, Cr. P C.

1. Where the Presidency Magistrate inflicted a sentence of six months' rigorous imprisonment and fine of Rs. 200 and in default of payment three months' simple imprisonment, the two sentences could not be combined to give the accused right of appeal. 2 M. 30, 16 C. 799, 20 B. 145, 10 Cr. L. J. 255.

2. No appeal lies to High Court from an order under S. 562, Cr. P. C., passed by a Presidency Magistrate. 1932 C. 88=138 I C. 627=33 Cr. L. J. 639.

3. If two concurrent sentences of 6 months' imprisonment are passed by a Presidency Magistrate, no appeal is competent. 17 C. L. J. 382.

14. Against sentence passed by Second or Third Class Magistrate.—S. 407, Cr. P. C.

1. Where a part of a case is tried as second class Magistrate and part as first class Magistrate and he was invested with first class powers before hearing arguments, the

Appeal—(contd.)

appeal from his order lies to the Sessions Court. 8 L. 203, 86 I. C. 978, 1925 Pat. 472=26 Cr. L. J. 914, foll. 17 Bom. L R. 895, 101 I. C. 602=1927 B. 366.

2. An appeal from a Bench of Magistrates invested with powers of second or third class will lie to the District Magistrate. 9 M. 36.

3. A person against whom an order under S 22. Cattle Trespass Act, is made by a Magistrate of second or third class will be deemed to be convicted on a trial within the meaning of S. 107 and appeal lies to the District Magistrate. 29 M. 517, 46 B. 58=1922 B. 191.

4. If the Bench, when sitting together is invested with first class powers, although consisting of second or third class Magistrates, the appeal lies to the Sessions Judge. 9 C. 96=11 C. L. R. 423.

5. A second class Magistrate was invested with first class powers before judgment; trial was held as second class Magistrate Held, appeal lies to District Magistrate under S 407, Cr. P. C. 1932 C. 460=33 Cr. L. J. 516. 8 Cr. L. J. 48 and 1925 Pat. 472 Ref. 1927 B 366=28 Cr. L. J. 474 Dist.

15. Against summary conviction when lies —S. 414, Cr. P. C.

1. When the accused was summoned on a charge under S. 323, I. P. C., by a second class Magistrate who could not try the case summarily, it is not open to Additional District Magistrate to place the case on his own file and try it summarily, but it should be held as an ordinary complaint. 1932 L. 188=33 Cr. L. J. 108, 4 C. 18.

2. If a Magistrate of the first class passes an order under S. 562 in a summary trial, the appeal lies under S. 408, Cr. P. C., because it is not a sentence of fine. 46 A. 828.

16 Alteration of charge or conviction.—

1. An appellate Court has power to alter conviction under one section of Penal Code into another of the same Code. 1922 A. 143=65 I. C. 854.

2. Appellate Court is not to contravene Ss. 237, 239, Cr. P. C. 33 M. 264, 38 P. R. 1905.

3 Appellate Court may record conviction in respect of an offence, of which the trial Court has found him not guilty. 1926 A. 700, 35 M 243, 48 I. C. 502, 20 Cr. L. J. 22 34 A. 115, 25 C. 975, 34 M. 545, 23 C. 975, 1924 Rang. 93=25 Cr. L. J. 247.

4. S. 238, Cr. P C., is no bar to alter the conviction under S. 147 to one under S. 323. 46 B. 79=1922 B 114=64 I. C. 156.

5 Appellate Court cannot convict for offence totally different from that charged in lower Court. 3 L 440=1923 L 260=69 I. C. 437, 56 I. C. 592=21 Cr. L. J. 49.

6 Altering conviction by the appellate Court does not include setting aside an acquittal. 1923 C. 658=75 I. C 362=24 Cr. L. J. 938=27 C. W. N. 555.

7. Alteration of conviction under S. 147 or S. 323 into one under S. 160, I. P C., is not justifiable. 47 M. 61=1924 M. 375 (2)=1923 M. W. N. 814=25 Cr. L. J. 554.

8. Where the accused were convicted of graver offences and acquitted of minor ones, the appellate Court can acquit them of graver offences and convict them of minor offences. 35 M. 243, 23 C. 975.

9. On an appeal against a conviction of murder, the appellate Court cannot convict the accused for theft while acquitting him of murder, for it is illegal under S. 237 or S. 238. 7 L 561, 4 L. 373=1924 L. 109 foll, 20 A 107, 1925 P. C. 130 Dist.

10 Conviction of an accused under S. 409, I. P. C., cannot be altered into one under S. 161 when he was not charged for it. 8 A. 120.

11. If, on the facts proved, the Court misapplied the law, the appellate Court can convict the accused for an offence for which he should have been charged. 26 C. 863.

12. When accused was charged under S 302 but was convicted under S. 304, I. P. C. the appellate Court can convict him of murder. 1 Rang. 436=1924 Rang. 93.

13. Appellate Court can alter a conviction under S. 182 to one under S. 500 notwithstanding that there was no complaint as required by S. 198. 25 A. 534.

14. Alteration of conviction under S. 376 into S. 366 is illegal. 8 Bom. L. R. 120.

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15. Alteration of conviction under S. 379 into S. 143 is illegal. 54 C. 476, 27 C. 660.

16. Alteration of conviction under Ss. 211-109 into S. 193 is illegal. 3 C. W. N. 367.

17. Alteration of conviction under S. 147 into Ss. 448-323 is illegal. 1926 C. 431=87 I. C. 842, 30 C. 288, 18 C. W. N. 1276=15 Cr. L. J. 704.

18. Alteration of conviction under S. 342 into S. 352 is illegal. 5 C. W. N. 296.

19. Appellate Court cannot convict the accused of an offence, which the lower Court is not competent to try. 4 P. R. 1917 Cr. 7 A. 414.

20. Appellate Court cannot alter the conviction of a substantive offence into abetment of that offence. 33 M. 264, 1928 L. 382=112 I. C. 850=30 Cr. L. J. 18, 13 Cr. L. J. 223=14 I. C. 203. *See* 42 C. 1094 and 98 I. C. 181.

21. An appellate Court can alter the finding of the lower Court while maintaining the sentence. 46 I. C. 415, 34 M. 545, 1927 M. 789=104 I. C. 440=28 Cr. L. J. 824.

22. If accused are acquitted under S. 325 by the Sessions Judge, the High Court can convict them under S. 323. 39 C. 896.

23. Appellate Court can alter conviction under S. 380 to one under S. 403, I. P. C., the two offences being of the same nature. 1929 L. 508=115 I. C. 25=30 Cr. L. J. 413.

24. Appellate Court cannot alter the sentence of trial Court by substituting whipping—a sentence not within the power of the trial Court. 1930 L. 318=120 I. C. 787=31 Cr. L. J. 166.

25. Sessions Judge can alter finding under Ss. 205 and 109 to one under S. 419, I. P. C. 1927 Pat. 199=102 I. C 337=8 Pat. L. T. 470=28 Cr. L. J. 529.

26. Appellate Court cannot alter the conviction into one for which accused was not charged. 1925 M. 706=87 I. C. 924=26 Cr. L. J. 1036=21 M. L. W. 520.

27. Alteration of conviction under S. 468 into one under S. 471 I. P. C. is illegal. 1925 N. 294=89 I. C. 398=8 N. L. J. 87=26 Cr. L. J. 1358.

28. Accused were convicted under S. 325 for breaking the knee cap. The appellate Court found that only K was guilty under S. 325 and others under S. 323 for other injuries. Held, the alteration is illegal, as they had no opportunity of answering that charge. 1924 C. 532=72 I. C. 72=24 Cr. L. J. 312.

29. A retrial on the altered charge is not necessary, on alteration of conviction into one for graver offence provided the accused is not prejudiced. 1925 Sind 105=89 I. C. 881=25 Cr. L. J. 1057.

30. A conviction for attempt may be altered into one for substantive offence. 26 C. 863 28Cr. L. J. 404=1927 C. 520=101 I. C. 180, 52 C. 881, 81 I. C. 881, 1925 R. 122 63 I. C. 145.

31. A conviction under S. 420 may be altered into one under S. 409. 81 I. C. 881 =1925 Sind 105=25 Cr. L. J. 1057.

32. Conviction cannot be altered to sections requiring sanction. 3 L. 440=1923 L. 260 *See* 25 A. 534.

33. On alteration of finding appellate Court need not frame new charge. 35 I. C. 816.

34. The appellate Court should issue notice to appellant or his Advocate if it intends to convict him of an offence of which he was acquitted by the Lower Court. 1932 C. 723=36 C. W. N. 1152=141 I. C. 622.

35. An appellate Court can change a conviction of a substantive offence into one of abetment, *e. g.* Ss. 324-114 into S. 324-34. 1935 Pesh. 67, 14 I. C. 203, 15 I. C. 85, 30 I. C. 724 and 25 C. 207 Rel. on.

36. High Court cannot convict the appellant under S. 379 when the accused was charged under S. 302 and S. 392 and who was convicted under S. 302 only. 1935 Rang. 512.

17. Amalgamation or joining together two appeals.—

Accused was convicted in two separate cases. He preferred two appeals. The appellate Court tried the two appeals together and accepted one and rejected the other. Held, that the procedure was bad. 1928 C. 230=109 I. C. 240=29 Cr. L. J. 512.

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18. By Government.—*See* Acquittal—1

19. By Jail Prisoner.—S. 420, Cr. P. C.

1. Where a Jail appeal is summarily dismissed under S. 421, no further appeal can be preferred through counsel. 44 A. 759, 46 M. 382 (392), 1935 Pat. 426=14 Pat. 392, 4 Cr. L. J. 373, 48 A. 208, 51 I. C. 271, 1931 Pat. 81, 1933 Pat. 38, 47 M. 428 and 61 C. 155 Ref, 1924 Oudh 425=82 I. C. 545.
2. The practice of Court in dismissing the Jail appeal summarily without calling on the appellant to appear is a correct procedure 1927 S. 223=27 Cr. L. J. 933.
3. A Jail appeal can be disposed of by a Vacation Judge. 46 M. 382=1923 M. 426.
4. Notice of the date of hearing be given to appellant in case of Jail appeal and that he may have reasonable opportunity of being heard. 2 Weir 472.
5. Judgment passed on Jail appeal should be like one filed through counsel. 1923 Oudh 56=65 I. C. 612=23 Cr. L. J. 148=9 Oudh L. J. 1.
6. A Sessions Judge rejected a Jail appeal, not knowing that his Mukhtar had preferred an appeal before. High Court directed the Judge to re hear the appeal filed by Mukhtar. 48 A. 208=1926 A. 178=90 I. C. 917=26 Cr. L. J. 162.
7. The objection to permit convict-appellants appealing from Jail, arguing in person is founded not on the convenience to prosecution but on their own interest. 1927 Oudh 369=106 I. C. 721=2 Luck 631.
8. Presentation of appeal to officer in charge of Jail is equivalent to presentation in Court. 29 P. R. 1890, (1892-1896) 1 U. B. R. 129 130.
9. If an appeal by Jail prisoner is dismissed on the ground of limitation, subsequent appeal by counsel is not maintainable. 46 M. 382=1923 M. 426.
10. If there is sufficient cause for delay in filing appeal by Jail prisoner, it should be allowed. 29 P. R. 1890.
11. Every facility such as pen, ink, and even writer should be allowed to the prisoner. (1870) 13 W. R. 60.
12. Summary dismissal of Jail appeal filed by the convict under S. 420, Cr. P. C., does not bar the filing and hearing of an appeal filed by counsel. 1934 A. 988 (1).
13. Once an appeal by Jail prisoner is dismissed he is not entitled to file another appeal through counsel. 1936 Oudh 219=37 Cr. L. J. 362, 1923 Oudh 56, 1924 Oudh 425, 1922 A. 480, 19 B 732, 1923 M. 426, 1935 Sind 84, 1935 Pat. 426, 1933 C. 870 and 1928 L. 462 Foll 1931 Pat. 81, 1925 L. 355 and 1906 A. W. N. 333 Diss.

20. Compensation in—*See* Conviction.

An order of compensation under S. 250 cannot be passed by appellate Court. 39 C. 157, 14 C. W. N. 212 overruled.

21. Contents of—S. 419, Cr. P. C.

1. A petition of appeal in a case tried by jury, should contain in what respect law has been contravened. 1 W. R. 21, 14 M. 36
2. A petition of appeal containing defamatory, statements against the Magistrate will not be entertained. It should be returned for representation after eliminating the scandalous remarks. 15 B. 488, 29 M. 100.
3. A petition of appeal containing false statements will not make the petitioner liable for the false statement. 12 M. 451, 1928 P. 574.

21-A. Conviction—Alteration of in—. *See* 16.

22. Copy of judgment.—Ss. 419, 371, Cr. P. C.

1. It is in the discretion of the appellate Court to admit an appeal without a copy of judgment or order. 30 Cr. L. J. 235=1929 L. 614=114 I. C. 61, 56 A. 299.
2. Where there are several accused and if they prefer a joint appeal, only one copy of judgment is sufficient. 18 Cr. L. J. 512, 5 Bom. L. R. 704.
3. Where there are connected applications and the full order is on one of them, the appeals should not be dismissed on the ground that full order is not attached with each appeal. 1929 L. 614=114 I. C. 61=30 Cr. L. J. 235.

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4. A copy furnished in the prisoner's own language is sufficient. S. 371, Cr. P. C.

5. Appeal by different persons convicted by one judgment in a joint trial may be heard, together, but they must be made separately. 1927 Nag. 48=27 Cr. L. J. 1062.

6. There is no warrant in Cr. P. Code for differentiating between a judgment passed on an appeal filed under S. 420 by an appellant in jail and one filed by counsel. 1923 Oudh 56=65 I. C. 612=23 Cr. L. J. 148=9 Oudh L. J. 1.

23. Course of—Ss. 414-415, Cr. P. C.

1. Where the case which should have been tried by Assessors is tried by Jury, the accused is not debarred from the right of appeal. 3 C. 765.

2. Appeal lies to the Sessions Judge from the order of a magistrate under S. 562, Cr. P. C. 46 A. 828=1924 A. 765=82 I. C. 172=25 Cr. L. J. 1244=22 A. L. J. 751.

3. Appeal is not competent from the order of Superintendent, Hill States, Simla. 14 P. R. 1910 Cr.

4. Appeal is not competent from the judgment of a Single Judge on original side. 1 P. R. 1909, 4 P. R. 1909.

5. No appeal lies from an order fining a defaulter under S. 25, Income Tax Act. 14 W. R. 71.

6. An order requiring accused to pay Court fee under S. 31, Court-fees Act, is not appealable. 20 C. 687.

7. An order awarding compensation and repayment of fines under S 22 Cattle Trespass Act, is appealable under S. 408, Cr. P. C. 46 B, 58=1922 B. 191=63 I. C. 160.

8. No appeal lies from an order restoring possession of immovable property under S. 522, Cr. P. C. 25 C. 630, 1924 A. 183 (1)=73 I. C. 773 *Cont.* 29 C. 724, 36 C. 44. *See* 14 P. R. 1919 Cr.=20 Cr. L. J. 30=48 I. C. 510.

9. Appeal against trial by jury lies on a matter of law only. 39 A. 348, 21 C. 955 25 C. 230, 19 B 749.

10. Where case is heard in revision no appeal lies. 225 A. W. N. 1890.

11. No second appeal lies to High Court, where appellate Court takes additional evidence under S 428, Cr. P. C. 27 C. 372.

12. Sessions Judge is bound to hear the appeal, even if the appealable sentence is passed by the Magistrate later on at the request of the accused. The appeal is competent 35 B. 418.

13. Privy Council is not a Court of appeal. The Board will grant leave to scrutinize whether there has been a miscarriage of fundamental principles of justice. 53 I. C. 703, 69 I C. 631, 44 C 876.

24 Dissmissal

1. A criminal appeal once admitted cannot be summarily dismissed. An opportunity must be given to appellant's counsel to be heard fully. 1924 R. 294=81 I. C. 549 =25 Cr. L. J. 933=3 Bur. L. J. 18.

2. An appeal once admitted cannot be dealt with summarily that the court has gone through the record. The order is illegal when no judgment was written. 1923 Pat. 368=72 I. C. 613=24 Cr. L. J. 453=4 P. L. T. 552.

25. Dismissal for default.

1. A Sessions Judge should not dismiss an appeal for default under S. 423 but decide it on merits. 1930 O. 334=125 I. C. 848=31 Cr. L. J. 939, 50 B. 673, 50 C. 972.

2. The court is bound to peruse the record, even if the appellant or his pleader is absent. 6 Pat. 16=1927 P. 176=100 I. C. 831=28 Cr. L. J. 351, 1935 P. 460.

3. It is illegal to record an order of dismissing an appeal "in default". 35 I. C. 152= 20 Cr. L. J. 744=6 Oudh L. J. 370.

4. Dismissal in deault is not justified when officer is on tour. 11 P. R. 1905 Cr.

5. There is no dismissal of a criminal appeal in default and therefore when an appeal is summarily dismissed under S. 421, it is *prima facie* a judgment. 1935 Sind 84= 1935 Cr. C. 373, 21 C. 121 (127) Ref.

Appeal—(contd)

6 Court dismissing an appeal in default can set aside its own order and regular appeal 9 Cr L J. 553

26 Disqualification of judge *See* Disqualification of Judge

1 Sessions Judge is not prohibited from hearing appeal from a conviction in which as Insolvency Judge he ordered the prosecution 71 I C 363, 39 P R 1889

2 A court sanctioning prosecution is not always precluded from hearing appeal 1924 Nag 23=89 I C 1049

3 Sessions Judge is not debarred from hearing appeal against conviction by himself as Magistrate 22 P R 1873 Cr

27 Duty of appellate Court

1 Appellate court should arrive at independent conclusions as to facts upon the record 8 P R 1868 6 P R 1898 129 I C 276=1930 L 1051=32 Cr L J 271

2 Appellate court should give the accused the benefit of doubt 3 P R 1876 6 P R 1898

3 Appellate court should give an appellant an opportunity to be heard by counsel 31 P R 18 0 29 M 236

4 Appellate court should decide the appeal on merits even if the appellant or his counsel is absent 50 C 972=1924 C 955=25 Cr L J 1150=81 I C 974

5 Appellate court should order retrial of the accused when his defence evidence is not taken 28 P R 1884

6 Appellate court should treat the opinion of the lower Court, as to credibility of oral evidence as almost conclusive 125 P L R 1914

7 In case there are numbers of appellants the appellate court should consider the case of each accused separately 1925 M 712=26 Cr L J 1089 12 Cr L J 43

8 Appellate court should decide the right of private defence from the cross examination of prosecution witnesses if accused adduced no evidence on the point 61 I C 654

9 Appellate court must consider both the oral and documentary evidence 51 I C 664

10 Where the trial court discussed the evidence carefully the appellate court need not recapitulate it 8 O W N 304=1932 Oudh 172=137 I C 349

11 Where evidence is fully analysed and all things in favour of accused are considered and some accused were convicted on testimony of witnesses who were disbelieved as to rest of accused conclusions of trial Judge should not be disturbed 1933 Oudh 62 34 Cr L J 377=142 I C 813

28 Finalty of order on—S 430 Cr P C

1 A sentence is said to be final when it cannot be set aside or interfered with by any court or authority, whether on appeal or otherwise 12 C 536

2 Where the Sessions Judge rejected an appeal as time barred the rejection was final and he could not admit the appeal again on the representation of the prisoner 19 B 732 24 P R 1887 Cr

3 An order of summary rejection of appeal is final 4 B 101

4 An order rejecting an appeal for non appearance of the appellant is an improper order and court can rehear it 46 M 382 (403) 5 N L R 76=9 Cr L J 553

5 When the appellate or revisional court has considered the case in all its aspects that judgment or order must be final and the inherent power of the High Court under S 561 A cannot be invoked to alter the sentences 1931 N 169—134 I C 686 Cont 1927 L 139=28 Cr L J 239=99 I C 1039

29 Grounds of appeal—Point not raised

Where the accused who were examined as approvers were committed to the Sessions for trial the objection could be taken for the first time in appeal although it was not raised in the grounds of appeal 1931 Oudh 113=128 I C 209=32 Cr L J 91

30 Hearing appellant or counsel S 421, Cr P C

1 Asking the pleader to argue the appeal straight away when it is presented is improper 53 M 865, 117 I C 279=1929 N 150=30 Cr L J 791

2. Appellate Court must give a reasonable opportunity to the appellant's counsel to be heard. 1929 N. 150=117 I. C. 279, 1925 C. 161=93 I. C. 76, 101 I. C. 595.
3. Even if the appeal is filed beyond time, appellant's counsel must be heard. 1927 B. 445=103 I. C. 109=28 Cr. L. J. 653=29 Bom. L. R. 701.
4. A private prosecutor has no right to be heard. 1932 C. 61=33 Cr. L. J. 305.
5. Appeal may not be postponed if opportunity was given to appellant's counsel. 53 M. 865=1930 M. 8 3=127 I. C. 803=32 Cr. L. J. 40=59 M. L. J. 835.
6. S. 421 does not require that the appellant or his Pleader must be heard before the appeal is decided, but all that is required is that a sufficient opportunity should be afforded to them to be heard. 1935 Sind 84=1935 Cr. C. 370.
7. If an appeal is dismissed without giving opportunity to appellant or his Pleader for being heard, the order is without jurisdiction and the appeal should be reheard. 1925 L. 355=26 Cr. L. J. 1169=88 I. C. 593.
8. Even if the appellant's counsel was absent, the Sessions Judge examined the evidence, held, that there was hearing of appeal within S. 423, Cr. P. C. 1935 P. 515.
9. Parties must be heard in each other's presence. Appellant has right of reply. 1932 C. 856.

31. Joint.

Joint appeal by accused with common interest is valid, but where their interests conflict, they must prefer separate appeals. 1936 L. 859, 5 Bom. L. R. 704, 13 P. R. 1890 and 18 Cr. L. J. 512 Ref.

32. Judgment—jurisdiction.—*See* Judgment—jurisdiction,

33. Limitation for filing—*See* Inherent powers—14

1. In case of delay in filing appeal, the appellate Court should see if there is sufficient cause. It should be admitted if other co accused are acquitted. 7 P. R. 1871 Cr.
2. Period between date of application for and delivery of copies to accused's agent should be excluded. 5 P. R. 1888 Cr.
3. The time spent in obtaining a copy of the diary orders in the case, which were filed with the appeal, should not be deducted while computing the period of limitation for filing appeal. 3 R. 220=1925 R. 239=89 I C 459=26 Cr. L. J. 1371.

34. New case—.

1. The charge cannot be altered by an appellate Court as to make it necessary for the accused to meet an absolutely different case from that with which he is charged by the magistrate. 1926 A. 33=90 I C. 150=26 Cr. L. J. 1934.
2. The powers of the appellate court are not intended to start a new case against the accused without giving him notice of the charge he has to meet. 30 I. C. 151=16 Cr. L. J. 599, 1932 C. 723=36 C. W. N. 1152=141 I. C. 622.

35. New plea.

New plea that certain statements are inadmissible as being not statements as contemplated by S. 164, Cr. P C, cannot be raised for the first time in appeal 1936 C. 101=37 Cr. L. J 445.

36. Non-appealing accused.

1. In exercise of its revisional jurisdiction, High Court can deal with the sentence of non-appealing accused, while dealing with the appeal of appealing accused. 1934 L. 346=35 Cr. L. J. 1047, 1932 L. 615 (1), 12 Cr. L J 250, 5 C. W N. 330
2. Court can reduce the sentence of non-appealing accused 1932 L 615 (1).
3. High Court when dealing with cases in appeal or revision are competent to acquit an innocent person. 11 Cr. L. J. 99=4 I. C 980.

37. Notice of—S. 442, Cr. P. C.

1. Notice must specify the exact date of hearing. It is not enough that appeal would be heard in a certain month. 1881 A. W. N. 46.
2. A general notice on the Court House, that appeals will be heard on the first Court day next after presentation of the appeal is not sufficient. 5 M. 11.

Appeal—(contd)

3 It is necessary to give notice in case of change of place of hearing 7 P R 1891 Cr 11 P R 1905 Cr

4 A general notice to follow officer s camp is insufficient 11 P R 1905 Cr

5 In case of enhancement of sentence notice must be issued to appellant 14 P R 1877 Cr

6 In case of appeal against order of compensation under S 250, notice should be given to the public prosecutor Notice to accused is not necessary although desirable 33 M 89 29 M 187, 38 M 1091, 1924 L 675=76 I C 641=25 Cr L J 209 -

7 Omission to give notice to District Magistrate is an illegality and not merely an irregularity 24 Bom L R 1150=1923 B 74=24 Cr L J 700

8 The objection that District Magistrate is not served with notice should come from him and not from the complainant 25 Bom L R 251=1923 B 254

9 When appeal is admitted and bail is granted it cannot be dismissed without giving notice of hearing to the counsel 1924 R 294=81 I C 549=25 Cr L J 933

10 Notice should be given to appellant in case of jail appeal and he should be allowed to argue in person 50 A 543=1928 A 84=108 I C 122 (F B)=26 A L J 275=29 Cr L J 334 13 A 171 and 1927 Oudh 312 Diss from

11 Notice should be given to the complainant where compensation has been granted to him 53 C 969=1926 C 1054 97 I C 62=27 Cr L J 1056

12 Notice to District Magistrate is necessary even if the appeal is to be heard by the Joint Magistrate and originally the appeal was to be filed before the District Magistrate 1925 M 3 5=83 I C 349=25 Cr L J 1389

13 If District Magistrate hears the appeal no notice is necessary to himself 1921 M 281=62 I C 823=22 Cr L J 553

14 Failure to issue notice to the crown by appellate court is a sufficient ground to set aside the appellate order 53 C 969=1926 C 1054=97 I C 62=27 Cr L J 1056 1925 M 375=83 I C 349 1923 B 4=73 I C 812

15 In the absence of notice to District Magistrate the order of the acquittal by appellate Court is revisable at the instance of District Magistrate and not the complainant 1923 B 264=86 I C 257 26 Cr L J 51

16 An order of retrial in the absence of notice to accused is bad 49 P R 1918 Cr

38 On a matter of law—S 418 Cr P C *See* Verdict of jury

1 An appeal may lie on a matter of fact as well as on a matter of law except where the trial is by jury in which case the appeal shall lie on a matter of law only 132 I C 232 1931 Oudh 171=8 Oudh W N 344

2 Where the accused who is charged with an offence triable with assessors is tried with a jury no appeal is permissible on question of fact but only on question of law 1931 M W N 129 25 B 680 6 M L J 14 Diss from

3 The alleged severity of sentence shall be deemed to be a matter of law 1931 Oudh 171=132 I C 232=8 Oudh W N 344

39 Order of commitment—S 423 (1) (*b*)

1 Appellate Court is competent to direct a commitment to the Sessions even if the offence is not exclusively triable by a Court of Sessions 8 A 14 23 C 350

2 Commitment should be directed if the appellate Court is of opinion that the Magistrate should have done it and could not adequately punish the accused 16 B 580 15 A 05 16 P R 1895

3 Where an appellate court orders a Magistrate to commit the accused to Sessions the magistrate has no jurisdiction to make any further inquiry The inquiry already made is sufficient He should frame a charge and make a formal order of commitment 1935 A 579=156 I C 849=1935 A L J 618 15 A 205 29 I C 65=16 Cr L J 439

4 Appellate Court can order the commitment itself 31 M 40 10 B 319, 27 M 54, 1922 A 345 23 Cr L J 456=67 I C 728 15 A 205, 29 I C 65

Appeal—(*contd*)

40 Powers of appellate court

1 Appellate Court has no power to direct an enquiry but may take further evidence 1921 A 158=67 I C 498

2 The accused should not be convicted of an offence with which they were not charged by the trial court 1921 P 496=62 I C 181

3 The power of appellate court to vary a sentence must be measured by those of the trial court 45 A 594=1924 A 130–76 I C 1032=25 Cr L J 312

4 Appellate Court cannot decide legality of previous conviction 1924 R 295=82 I C 471=25 Cr L J 1303

5 Appellate Court can fully deal with a case as provided by S 423 Cr P C 1926 N 53 =88 I C 178=26 Cr L J 1090 Foll 21 C 955 Diss 25 C 711

6 Appellate Court can reject part of prosecution story and convict on the rest of it 1927 M 410=28 Cr L J 238=99 I C 1038 42 C 784 28 I C 795 expl

7 It is doubtful whether an appellate court can under S 423 (1) (*b*) pass an order which would make the position of the appellant worse 1927 L 733=102 I C 511

8 S 423 (1) (*a*) does not permit a Sessions Judge to revise a wrong order passed by his predecessor 53 B 578=1929 B 309–31 Bom L R 593

9 The appellate Court has power under S 520 or S 423 (1) (*d*) to pass appropriate order for the disposal of property produced at the trial, even though the trial magistrate omitted to do so 10 L 187–1928 L 567–1923 M 324=46 M 162

10 High Court cannot interfere with the verdict of jury unless there has been miscarriage of justice 1927 C 398 101 I C 661 31 C W N 410=28 Cr L J 495

11 Appellate Court can alter the nature of sentence 3 P R 1884 Cr

12 Appellate Court has no power to add to sentence an order requiring security 23 P R. 1888 Cr *See* 21 P R 1905 Cr 127 P L R 1901

13 Appellate Court can order the commitment of the accused to the court of Sessions 23 C 350, 16 B 580 15 A 205 16 P R 1895, 1923 L 128 (2)

14 Appellate Court will be reluctant to interfere with the findings of the court unless strong grounds are made out 1932 Sind 143=33 Cr L J 900 140 I C 23

15 Accused was convicted on one charge but acquitted on other charges The appellate court while setting aside the conviction cannot order retrial on all charges 1935 C 120=154 I C 609–38 C W N 1128

16 There was an appeal against conviction under S 304 and a revision for enhancement of sentence before the Sessions Judge He ordered that the case should be committed to the Sessions for trial Held that the order was legal 1933 L 128 (2)=34 Cr L J 640 15 A 205 16 P R 1895

17 Appellate Court can convict accused of offence though not charged but for which he could have been charged 1936 N 132 1925 P C 130=6 L 226

41 Powers of High Court—(Judgment)—S 424 Cr P C

1 High Court can dismiss an appeal without giving reasons 1933 P 38=34 Cr L J 118, 35 B 418 and 1931 P 351 Dist

2 If the appellate judgment is not in accordance with law High Court may remand the appeal for rehearing and delivery of a proper judgment 7 C W N 30 37 C 194, 43 P W R 1912, 1 Bom L R 225

3 Omission to write a judgment is not a curable irregularity 17 Bom L R 1085

42 Presentation of—S 419, Cr P C

1 The petition of appeal should be delivered to the proper officer of the court by appellant or his pleader 15 M 137

2 Presentation by pleader s clerk is proper 20 M 87

3 Presentation by a person who is not a clerk of pleader and over whose actions he has no control is not a proper presentation 21 M 114

4 The word 'Pleader includes Mukhtar 6 B 14 1 M 304

Appeal—(contd.)

5. Presentation by a prisoner to jail authorities is equivalent to presentation in court. 29 P. R. 1890 Cr.
6. Depositing a petition of appeal in a box kept for convenience of parties is not proper presentation. 19 M. 354.
7. Transmission of petition of appeal by post is not sufficient compliance with S. 419, 2 Weir 467, 15 M. 137.

43. Remand.

1. When one of the Magistrates of the Bench of Honorary Magistrates omitted to sign the judgment, the appellate Court can remand the case for the signatures of the Magistrate. 41 A. 217.
2. Case may be remanded from the stage it becomes irregular. 1928 P. 50=104 I. C. 909=28 Cr. L. J. 893.
3. Sessions Judge can remand a case by setting aside conviction and ordering retrial. 1929 L. 692=126 I. C. 69=1929 Cr. C. 219.
4. If the appellate Court finds the decision of lower Court not satisfactory it cannot remand the case and order the lower Court to write out a proper judgment. 32 C. 1069
5. Remand of appeal under S 476 (B), Cr. P. C, for further enquiry is illegal but if t has not led to failure of justice the defect is curable. 1930 Sind 315.
6. If the appellate judgment is not in accordance with law, High Court can remand appeal for rehe ring and delivery of proper judgment. 7 C. W. N. 30, 37 C. 194, 43 P. W. R. 1912, 1 Bom. L. R. 225.

44 Remarks and comments in judgments in.—*See* Expunging remarks.

45. Retrial.—*See* Retrial.

1. Retrial would not be ordered unless there are grave reasons. 13 A. L. J. 477.
2. Retrial should be ordered if the trial Court had no jurisdiction. 8 A. 14, 1895 A. W. N. 295, 29 C. 412.
3. A retrial should be ordered if appellate Court finds that the accused should have been tried for another offence. 36 M. 457.
4. If conviction is set aside on the ground of misdirection to jury, retrial should be ordered. 4 C W. N. 576
5. If there is absence of or defect in charge, retrial can be ordered. 7 C. W. N. 301.
6. If there is irregularity in procedure, retrial should be ordered 124 I. C. 619=1930 N. 225=31 Cr. L. J. 705=2 Weir 481, 36 M. 457.
7. Appellate court in discharging accused on the ground of misjoinder of parties, can order retrial. 28 C. 104.
8. When the prosecution came with an incomplete case and it confirmed the defence, retrial cannot be ordered. 1928 Pat. 293=107 I. C. 529=29 Cr. L. J. 258.
9. Retrial should not be ordered, if the complainant's story is grotesque and accused has served half the sentence. 1930 Nag. 255=124 I. C. 619=31 Cr. L. J. 705.
10. In case of appeal against acquittal, High Court can decide the case instead of ordering retrial. 1927 Sind 104=99 I. C. 98, 19 B. 749, 1925 Sind 116 Rel. on.
11. Retrial cannot be ordered only because the reasons given by the Magistrate for rejecting prosecution evidence, are not satisfactory. 1927 A. 727=28 Cr. L. J. 946.
12. In the case of appeal from an order under S. 107, Cr. P. C., retrial can be ordered. 45 A. 501, 1925 A. 403=96 I. C. 497=24 A. L. J. 566=27 Cr. L. J. 945.
13. Retrial should not be ordered unless there is reasonable opportunity of accused being convicted. 50 M. 274, 69 I. C. 380, 1926 N. 53=26 Cr. L. J. 1090.
14. If juror gives out his opinion outside Court before the conclusion of trial, retrial should be ordered. 1921 C. 631=62 I. C. 334=25 C. W. N. 240.
15. Retrial cannot be ordered only because inadmissible and irrelevant evidence is admitted. It should be separated. 74 I. C. 72=1923 R. 65=24 Cr. L. J. 744.

Appeal—(contd.)

16. Retrial should be ordered, where the cross-examination of prosecution witnesses was perfunctory owing to counsel's inaptitude and facts were not ascertained. 1924 C. 257=81 I. C. 353=25 Cr. L. J. 817=28 C. W. N. 170.

17. Retrial cannot be ordered if the prosecution story has hopelessly broken down in every respect. 1930 M. 189=122 I. C. 497=31 Cr. L. J. 422.

18. If the magistrate holds that the prosecution story is doubtful, the appellate Court should not order retrial on the ground that another view of the case may be taken. 1930 L. 543=31 P. L. R. 729=129 I. C. 300=32 Cr. L. J. 302.

19. If the Sessions Judge thinks that evidence of some more witnesses is necessary, he should order additional evidence under S. 428 and not a retrial. 31 C. 710, 45 I. C. 149.

20. High court can order retrial of appeal by the lower appellate court. 7 P. L. R 1913=2 P. R. 1913 Cr.=43 P. W. R. 1912=13 Cr. L. J. 737.

21. Appellate Court instead of ordering retrial, may retry the case itself. 30 M. 228 2 Weir 481.

22. If the appellate Court finds the complaint resulting in conviction to be *ultra vires* it has no jurisdiction to order retrial. 57 I. C. 820=21 Cr. L J. 660.

23. An order of retrial is bad in the absence of notice to the accused. 49 P. L. R. 1918

24. Ordering retrial with the direction to treat evidence already recorded as evidence in the case is irregular. 43 I. C. 109=19 Cr. L. J. 77.

25. Appellate Court can order retrial on a fresh charge. 19 I. C. 326.

26. Retrial should not be ordered with the object of enabling the prosecution to fill up deficiencies in prosecution evidence. 8 I. C. 594=11 Cr. L. J 684.

27. If the accused has been harassed by repeated trial on insufficient evidence, retrial would not be ordered. 1926 A. 429=95 I. C. 385=27 Cr. L. J. 785.

28. Retrial should be ordered under special circumstances. 1926 A. 429=95 I. C. 385.

29. It is to supply formal defects that appellate Court orders retrial. 131 I. C. 454, 1931 M. 227=32 Cr. L. J. 749, 42 A. 522 and 1930 M. 189 Ref.

30. If prosecution has failed to prove the case, retrial should not be ordered. 1931 M. W. N. 517.

31. S. 43 does not authorize the appellate court to order retrial from a particular point or that a particular charge to be framed. 1932 M. W. N. 114.

32. Accused was charged under S. 420 and S. 465 but was convicted under S. 420 only. He was acquitted for the offence under S. 465, as the Magistrate found that the case fell under S 467 which he could not try. On appeal the Sessions Judge ordered retrial. Held, that arder was illegal. 1935 L. 945, 1933 A. 941 Rel. on. 31 P. R. 1910 and 16 P. R. 1895 Dist.

33. An appellate Court cannot order retrial merely because it disagrees with the finding of lower court, that the accused had not committed the more serious offence but the lesser offence. 1936 A. 758.

46. Reversal of finding—

1. Where a man charged with murder is convicted of a minor offence, the High Court acting as Court of Appeal and Revision can convict him of murder. 4 R. 140=1926 R. 154=98 I. C. 705=27 Cr. L. J. 1393.

2. An appellate Court cannot retain the case on its own file and ask the lower Court to record a finding which it has failed to record under S. 367. 54 I. C. 404.

3. On an appeal against acquittal under S. 302, the appellate Court can convict the accused under S. 193, even though the opinion of Assessors was not recorded with regard to this charge. 52 B. 385=1928 B. 130=108 I. C. 501, 1925 P. C. 130, 1924 B. 246 and 19 B. 51 not foll, 1925 Sind 105 Appr.

4. Appellate Court can reverse the finding in a murder case, if the boy is missing and identity of accused is not established. 1929 A. 710=121 I. C. 248.

5. Where a Sessions Judge reversed the conviction for non compliance with the

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provisions of S. 360 and left the question of retrial to the District Magistrate, the retrial of the accused is competent. 53 C 192, 46 C. 212 Appr.

6. Retrial should be ordered under special circumstances. 1926 A. 429=95 I. C. 385.

7. Appellate Court should not disturb the verdict of jury unless opposed to the entire weight of evidence. 1930 C. 199=124 I. C. 818=31 Cr. L. J. 737.

8. Finding of trial court will not be disturbed in the absence of strong grounds. 1932 Sind 143=140 I. C. 23=33 Cr. L. J. 900.

47. Revision and—Distinguished.

1. In appeal the appellant is given a statutory right to demand an adjudication upon a question of law or fact or both. But in revision the applicant has no right whatsoever beyond the right of bringing his case to the notice of the court. It is for the court to interfere in exceptional cases. 1935 A. 814=36 Cr. L. J. 907.

2. A revisional application is not to be regarded as in some sort a second appeal on a question of law. 1935'A. 814=36 Cr. L. J. 907.

48. Right of reply.—*See* Arguments—7.

1. Right of reply should be conceded to the appellant's counsel after the arguments of the public prosecutor. 21 P. R. 1917 Cr.=36 I. C. 835

2. There is no right of reply vouchsafed to an accused under S. 423 but permission to reply is a privilege which should not be refused by an appellate Court. 1925 Oudh 50=82 I C 37=25 Cr. L. J 1173, 1925 O 65=82 I. C. 33.

49. Right of—When co-accused given appealable sentence. S, 415-A , Cr. P. C.

1. Where one of the several accused has a right of appeal, it enures for the benefit of the other accused as well. 134 I. C. 1196=1931 C. 642.

2 If at one trial some of the accused are sentenced to appealable sentences, while the rest are awarded *non-appealable sentences, all of them have a* right of appeal 17 Cr. L. J. 27=30 P. R. 1915 Cr., 4 L. B. R. 354=9 Cr. L. J. 356. 16 P. R. 1916 Cr. 38 A. 395, 22 Cr. L. J. 297.

3. Where an accused is convicted on his own plea of guilty and is merely bound over, he has no right of appeal, although he was tried with others who were awarded appealable sentences. 1931 Sind 151=134 I. C 379=32 Cr. L. J. 1142.

50. Right of—by combining sentences. S. 415, Cr. P. C.

1. Where two punishments such as that mentioned in S. 414 were imposed, by reason of the combination of the punishments S. 415 made the order appealable. 1932 Oudh 27=136 I. C. 248=33 Cr. L. J. 278, 33 A. 510.

2. If a first class Magistrate passes two sentences of Rs. 40 on the accused, the aggregate of the sentences should be taken into account to save the right of appeal. 134 I. C. 1196=30 Cr. L. J. 90=1931 C. 642.

3. S. 415 applies when accused is ordered to give security to keep the peace and not when required to furnish security for good behaviour 9 Cr. L. J. 368.

51. Summary dismissal of.—S. 421, Cr. P. C.

1. Appeals which are complicated both in law and facts ought not to be summarily dismissed. 48 M. 385=1924 M. 895=19 Cr. L. J. 228, 22 Cr. L. J. 349.

2. Where the credibility of the prosecution witneses has been impugned, summary dismissal is improper. 24 Cr. L. J. 477=1922 Pat. 552.

3. An order of summary dismissal of appeal is final. 4 B. 101 ; 19 B. 732 ; 24 P. R. 1887.

4. If appeal is dismissed for default of pleader's absence, the appellate court may rehear it on merits. 46 M. 382 (403).

5. Where there are disputed facts and large number of documents, the appeal ought not to be dismissed summarily. 61 I. C. 173, 48 M. 385=1924 M. 895.

6. If reasonable opportunity is given to appellant or his pleader to be heard, the appeal may not be postponed. 53 M. 865=1930 M. 863=127 I. C. 803, 1929 N. 150.

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7. Appeal once admitted cannot be summarily dismissed. 1924 C. 642=69 I. C. 461.

8. Pleader should not be asked straightaway to argue the appeal when presented. 53 M, 865=1930 M. 863=127 I. C. 803.

9. Appellate Court in rejecting an appeal summarily is not bound to write a judgment. 21 C. 92, 20 B. 540, 25 M. 534.

10. Appellate Court should record reasons while rejecting an appeal summarily except in exceptional cases. 1930 P. 331=125 I. C. 121, 36 A. 496, 8 A. 514, 17 A. 241, 38 A. 393.

11. No reason need be recorded in support of summary dismissal of appeal. 1929 C. 773=123 I. C. 243, 1926 L. 196=91 I. C. 55=26 P. L. R. 616.

12. Judgment, dismissing the appeal summarily, need not be elaborate but must show that the Judge has applied his mind to it. 1929 Nag. 150=117 I. C. 279=30 Cr. L. J. 791, 38 A. 393, 36 A. 496.

13. Mere order that appeal is dismissed summarily without giving any reason is bad in law. 1925 Pat. 183=82 I. C. 165, 72 I. C. 893=1922 P. 552, 61 I. C. 49.

14. Order summarily dismissing the appeal, stands on the same footing as an order under S. 424, Cr. P. C. 1929 Sind 26=111 I. C. 856=29 Cr. L. J. 936

15. Even if appeal is filed after limitation, appellant's counsel should be heard before dismissal. 1927 B. 445=103 I. C. 109=29 Bom. L. R. 701=28 Cr. L. J. 653.

16. Reasons for summarily dismissing the appeal must be given, which will show that points raised by the appellant had been considered. 1935 Pat.32=152 I. C. 801=36 Cr. L. J. 191. 1930 Pat 331=31 Cr. L. J. 760 applied.

17. Where memorandum of appeal contained number of grounds admitting of arguments and the judgment simply was "Heard, I see no reason to interfere". Held, that S. 421 was not sufficiently complied with. 1935 Pat. 37=153 I. C 152=36 Cr. L. J. 261.

52. To Privy Council—*See* Privy Council.

53. Transfer of.—S. 407 (2), Cr. P. C.

1. The District Magistrate may delegate his work of hearing appeals, but not any revisional work. 2 Bom. L. R. 536.

2. The Court to which an appeal is transferred is not bound by any opinion as to the necessity of taking further evidence, etc. 31 M. 277.

3. If a Sub Divisional Magistrate has issued summons to a person as a court witness, while having an appeal transferred to him, the District Magistrate on withdrawing the appeal is not bound to hear that witness, because he is not bound by the opinion of the Sub-Divisional Magistrate. 31 M. 277.

4. S. 407 (2) deals with appeals against convictions only and therefore a District Magistrate cannot transfer to a First Class Magistrate an appeal from an order sanctioning prosecution. 34 A 244.

54. Who can file.—

1. Legal Remembrancer appointed by Government can file appeal against acquittal. 46 C. 544.

2. Private applicants or police can move District Magistrate for filing appeal. 1923 L. 163=24 Cr. L. J. 433.

55. Withdrawal of.—

A petition of appeal presented for admission may be withdrawn before it is dismissed under S. 421. 5 C. L. R. 372.

APPEARANCE THROUGH COUNSEL—*See* Absence of complainant. S. 174, I. P. C. Exemption from appearance S. 205, Cr. P. C.

APPELLATE COURT. *See* Appeal—27.

APPRECIATION OF EVIDENCE. *See* Evidence—2.

APPREHENDED DANGER. *See* S. 144, Cr. P. C.

APPREHENSION OF IMPARTIALITY. *See* Transfer (Ground)—7.

APPROVAL

1. **Instigation by.**—*See* Abetment.

2. **Taking property on.** *See* Breach of trust.—12.

APPROVER. Ss. 337-339 Cr. P. C. *See* Accomplice. Pardon.—2.

1. **Accomplice and—**

   1. Accomplice under offer of pardon is an approver. 14 P. R. 1894 Cr.
   2. Approver, although a competent witness, is not divested of the character of accused until he earns discharge. 12 L. 604=1931 L. 353=32 Cr. L. J. 785.

2. **Admissibility of statement of—**

   1. Statement made by an approver under tender of pardon is admissible at the subsequent trial. 10 P. R. 1895 Cr.
   2. Where an accused was given pardon for an offence not exclusively triable by Court of Sessions or those not mentioned in the section, the statement is inadmissible. 52 P. L. R. 1902. *See* 45 A. 226
   3. Approver must be examined as witness in committal and subsequent proceedings of every person tried for the same offence. Non compliance renders trial illegal. 11 L. 230=1930 L. 95=120 I. C. 489=31 Cr. L J. 111.
   4. Statement of approver may be oral, though it should always be reduced to writing. 9. L. 608=1928 L. 320=108 I C. 514=29 Cr. L. J 413.
   5. No formal order of discharge was passed in respect of approvers but they were not mentioned as accused in the challan. Held their evidence as admissible. 1923 L. 666=77 I. C 984.
   6. Even if the pardon is invalid, it would not prevent the approver being examined in the Sessions Court as a witness, if he is not committed for trial with the other accused. 1926 A. 590=97 I. C. 367=27 Cr. L. J. 1103.
   7. Prosecution is bound under S. 337 (2), Cr P. C. to produce the approver in Sessions Court, although his pardon is withdrawn before the trial. 1931 L. 102=134 I. C. 193=31 P. L. R. 1010=32. Cr. L. J. 1126.

3. **Certificate for prosecution of.** *See* Certificate—5.

4. **Commitment of.** *See* Commitment.

5. **Corroboration of.** *See* Accomplice.

6. **Detention or custody of.** *See* Detention—5.

7. **Evidence of.** *See* Accomplice.—6.

   An approver can easily substitute an innocent man for a real offender. 1931 L. 408=132 I. C. 185=32 Cr. L. J 818=1931 Cr. C. 648.

8. **Forfeiture of pardon of.** *See* Pardon.

9. **Oath to.**

   Administration of oath to an approver is not neccessary when pardon is given. 128 I. C. 209=1931 Oudh 113=7 Oudh W. N. 972=32 Cr. L J. 91.

10. **Pardon of.** *See* Pardon.

11. **Statement of.** *See* Accomplice.—6.

    1. An approver's disclosure is in its very nature always the result of inducement or promise of pardon. But should it appear that it was extorted by undue duress, threat or violence to the extent provided in S. 24, Evidence Act, the confessional statement would have to be ruled out of order. 9 L. 608=1928 L. 320=29 Cr. L. J. 413.
    2. S. 337 (1) nowhere lays down that the disclosure of facts shall be reduced to writing, the verbal testimony of the person to whom it is made is sufficient to prove the statement, though as a precaution, it is generally reduced to writing. 9 L. 608.
    3. A previous statement made by accused, who was subsequently pardoned, is admissible against him. 46 A. 236=1924 A. 220=81 I. C. 604=25 Cr. L. J. 956.

Approver—(*concld.*)

4. A discrepancy between the statements of approver and witness cannot be explained away by reference to statement before Police. 1934 L. 102=35 Cr. L. J. 517.

5. Retracted statement of approver must be extrinsically corroborated. 1934 Pesh. 46. 1928 L. 320, 5 A. L. J. 691 and 59 P. R. 1905 Foll.

6. No conviction can be based on the uncorroborated testimony of an approver. 1933 L. 838.

7. An approver accepting a tender of pardon can be examined under S. 164. 35 Cr. L. J. 111=1933 L. 868, 1933 L. 321=34 Cr. L. J. 469, 1924 L. 490.

8. If approver's evidence is rejected against an accused whom he falsely substituted, his entire evidence against other accused should also be rejected. 1933 L. 871=35 Cr. L. J. 137.

12. Trial of. *See* Pardon.

1. Certificate of Public Prosecutor is an essential requisite under S. 339 and the absence of certificate vitiates the trial of the approver. 5 L. 379=1925 L. 15=26 Cr. L. J. 237=84 I. C. 61.

2. Action can be taken against the approver after the trial of the other accused is finished. If he has forfeited pardon during the preliminary enquiry, he cannot be committed to the Sessions along with other accused. 23 B. 493, 24 M. 321, 31 M. 272. *Cont* 42 C. 856, 20 A. 529, 29 A. 24, 25 B. 675.

3. If the accused has forfeited his pardon during the trial he cannot be tried at once, as he was not committed to the Sessions as accused but as witness. 14 A. 336, 1 L. 218.

4. The burden is on the prosecution to prove that the approver forfeited the pardon. 1930 M. W. N. 773.

5. Accused cannot be tried and convicted of murder, until the court trying him has recorded a finding that he has forfeited the pardon. 5 L. 379=1925 L. 15=26 Cr. L. J. 237, 1929 Oudh 256=116 I. C. 64=30 Cr. L. J. 559.

6. Approver can plead pardon as bar to his trial and can say that he sufficiently complied with the conditions of pardon. 1922 Sind 31=68 I. C. 835=23 Cr. L. J. 611, 5 L. 379=1925 L. 15=26 Cr. L. J. 237=84 I. C 61.

7. If an approver made contradictory statements, sanction cannot be refused to prosecute him for perjury. 1933 L. 868=35 Cr. L. J. 111.

ARBITRATION.

1. In compoundable cases.

1. A criminal complaint cannot be referred to arbitration and the award following it cannot be made a rule of Civil Court. 1929 L. 394=116 I C. 215=30 P. L. R. 122 =11 L. L. J. 89.

2. Parties to a case under S. 427, I. P. C., agreed to be bound by the decision of arbitrator whose award was objected to by the complainant. Held that the agreement to refer the case to arbitration is not a final settlement. 1926 C. 266=90 I. C. 544=26 Cr. L. J. 1584=42 C. L. J. 139.

3. Parties referred their disputes including a case for defamation to an arbitration. Held that until arbitrators decided the dispute, the offence cannot be treated as compounded. 1925 M. 1211=90 I. C. 666==26 Cr. L. J. 1594.

4. If a compoundable case is referred to arbitrators, the Court is not bound to wait for award though it should and the award may amount to compounding the offence. The Court will give effect to such compounding. 26 Cr L J. 1594=1925 M. 1211.

2. In case under S. 145 Cr. P. C. *See* Dispute about immovable property.

3. In maintenance cases. S. 488, I. P. C.

Where an arbitrator has made an award in application to reduce maintenance, he cannot subsequently reduce it. 1934 A. 940.

4. In Nuisance cases.

As the dispute under Chapter X, Cr. P. C. (Public Nuisance) is of public nature it cannot be referred to arbitrators by consent of parties even. 61 I. C. 55=22 Cr. L. J. 327, 22 Cr. L. J. 511, 42 C. 702, 21 C. W. N. 926.

Arbitration—(*contd.*)

5. **In Security cases.** *See* Breach of Peace—4.

6. **Sanction for Prosecution.**—

Sanction for prosecution under S. 195 is requisite for offences under Ss. 193, 471, I. P. C., alleged to have been committed before an arbitrator appointed in a civil suit. 3 P. R. 1914 Cr., 17 M. L. J. 420.

ARGUMENTS.

1. **By accused.**

An accused has *no right to personally* argue his own bail application, although in special cases he can be permitted to do so. 134 I. C. 842=1931 A. 356=32 Cr. L. J. 1271.

2 **By counsel in appeal.** S. 421, Cr. P. C. *See* Appeal—30.

3. **By counsel in revision.** S. 439, Cr. P. C. *See* Revision.

4. **By counsel in trial.**

1. Although Code does not provide for arguments by counsel, yet opportunity for arguments must be allowed. Conviction was set aside on affidavit given to that effect. 1925 A. 282 (1)=23 A. L. J. 253=87 I. C. 796.

2. It is the duty of the Court to hear any arguments that may be offered in every criminal trial or proceedings. 1925 Oudh 228=83 I. C. 340=25 Cr. L. J. 1380.

3. The nature of defence can be ascertained not only from the statement of the accused but from the trend of cross examination and the arguments of accused's counsel. 1930 C. 442=127 I. C. 263=51 C. L. J. 339=31 Cr. L. J. 1203.

4. When the Court is in camp, it can give judgment without hearing the pleaders who did not attend. 69 I. C. 640.

5. In an application under S. 488, Cr. P. C, the parties were examined and the case was closed for orders. Pleader for the husband appeared and wished to argue the case and file some documents. The Court ruled him out and passed judgment. Held, that the case should be retried. 31 Cr. L. J. 110=1930 N. 59.

6. Omission by party to ask for opportunity for further arguments when magistrate examined witness after close of the case and submission of arguments is a bar to raising objections as a ground of revision. 1924 C. 980=25 Cr. L. J. 1107.

7. When there are more than one accused, their counsels should all be heard after the conclusion of the whole *evidence, if not, the procedure is illegal,* but does not vitiate the trial in absence of prejudice to the accused. 1932 L. 103=135 I. C. 209=33 Cr. L. J. 97=33 P. L. R. 891.

8. A junior pleader is not entitled as of right to complete the arguments, left unfinished by his senior. 53 I. C. 955.

9. Magistrate's refusal to hear accused's counsel is an illegality vitiating trial. 1928 M 1234=112 I. C. 586=29 Cr. L. J. 1082.

10 *Audi alteram Partem.* (Hear the other side—*i. e.*, no man should be condemmed unheard). 24 Q. B. D. 712, 32 L. J. C. P. 185. *Wharton's Law Lexicon, P. 81.*

5. **By Private Prosecutor.**

1. A private prosecutor has no right to be heard. 35 C. W. N. 976=1932 C. 61.

2. A complainant cannot claim as of right to be heard in appeal. It is purely in the discretion of the Court. 29 P. R. 1886, 7 M. H. C. R. 42 (App.)

6. **Cutting short.**

Court cannot cut short a counsel's arguments unless irrelevant or is a repetition. 1928 L. 319=107 I. C. 763=29 Cr. L. J. 279.

7. **Right of reply in appeal.** *See* Appeal—44.

8 **Right of reply in trials.** S. 292, Cr. P. C.

1. Where the accused has not called any evidence on his behalf, he has the right to b heard last. 53 B. 119=1928 B 557=30 B. L. R. 1530.

2. The putting in of deposition of witnesses made before the Committing Magistrate an

Arguments—(concld.)

the police is not adducing evidence. 31 C. 1050, 11 Bom. L. R. 177, 14 C. 245, 17 C. 930, 10 C. 1024, 14 B. 436.

3. Even if one of the accused calls witnesses, and the others do not, the prosecution is entitled to reply not merely on the evidence adduced by one of the accused, but generally on the whole case. 18 B. 364.

4. The prosecution shall be entitled to reply if the documentary evidence for the defence is adduced after the case for the prosecution is closed. 43 C. 426.

9. Undefended accused.

Where in a Sessions court an accused is unrepresented, the judge should bring to the notice of the jury the argument which would have been advanced, if he had been represented by pleader, else it will be urged that there was non direction in the charge of the jury. 1930 Sind, 308=23 Cr. L. J. 172.

10. Written.

1. Written address filed by counsel do not stand higher than judge's notes of counsel's arguments. 53 B. 119=1928 B. 557=30 Bom L. R. 1530.

2. It is open to court not to accept notes of arguments filed by pleader of the accused, but if he accepts it, it must form part of the record and should not be destroyed till the expiration of period of appeal. 1926 Sind 194=94 I. C. 903=27 Cr. L. J. 711.

3. Counsel can waive his right of oral address in favour of written one. 53 B. 119.

ARMS ACT.—(XI of 1878).

S. 1.—(*i*) Licence for weapon need not be with the person. 64 I. C. 275, 20 C. 444.

(*ii*) Sale by Nazir of Court is excluded from the operation of the Act but court should give notice under S 5. 9 B 518.

(*iii*) A penal enactment like Arms Act must be strictly construed in favour of individual, when some doubt exists. 1928 N. 219=109 I. C. 511=29 Cr. L. J. 575

S. 4.—" Ammunition "—Definition.

(*i*) Empty cartridge case is included in "Ammunition." 46 A. 107=1924 A. 215, 32 A. 152=10 Cr. L. J. 573=7 B. L. R. 474. *Cont.* 20 P. R. 1890.

(*ii*) Lead moulded into bullet of 20, 24 bore is " Ammunition." 16 P. R. 1910=23 P. W. R. 1910.

" Arms "—Definition of Arms is not exhaustive. 60 C. 1477.

1. Whatever can be used as an instrument of attack or defence or cutting or thrusting and is not an ordinary implement for domestic purposes is an arm 34 C 749, 32 P. R. 1918=46 I. C. 486, 2 L. 291=1922 L. 138 (2)=64 I. C. 847=23 Cr L. J. 63 =12 P. L. R 1922.

2. The test is whether particular instrument is usually employed for the purposes of defence and offence. 16 P. R. 1910, 10 P. R 1919, 52 I. C. 193, 6 I C. 952, 1927 L. 162=99 I. C. 935=28 Cr. L. J. 199.

3. The definition of "arms" is neither exhaustive nor happy. 32 P. R. 1918, 26 I. C. 133. The mere fact that it is dangerous does not make it arm

4. Fire-arms mean arms that are fired by gun-powder or other explosive 42 C 1153.

5. "Arms" includes parts of arms. 42 C. 1153, 7 M. 70, 1933 C 495 (1)

6. A gun rendered unserviceable by the loss of trigger is not an arm 6 M 60.

7. Air-gun is not an arm. 4 Cr. L. J. 239 *Cont* 60 C 1477=1934 C 368.

8. Chhavi is an arm. 20 P. R 1900, 10 P L R 1919, 52 I C 193, 33 P. L. R. 1914.

9. Cook's knife is not an arm. 5 L B. R. 130.

10. Sword stick is an arm. 34 C. 749, 1933 B. 438.

11. Empty cartridge case is an arm. 32 A. 152

12. Revolver with its trigger out of order is an arm. 21 M. 360.

13. Gun-barrel and nipple are 'arm.' 7 M. 70, 5 Cr. L. J. 435.

14. Dashi-Upyat is not an arm. 8 I. C. 972.

15. Battle axe is an arm. 1 Weir 654.

16 Rockets under the definition of ammunition are war-rockets. 5 M. 159.

17. Sword hilt is an arm 38 P. R. 1889.

18 A revolver out of repair is arm. 6 P. R. 1908.

19. A clasp knife is not an arm. 1 L. B. R. 271.

20. A hunting knife is an arm. 81 I. C. 943 (C).

21. Bolts and bars of rifles are 'arm.' 1923 L. 617=77 I. C. 1003.

22. Gandasa for purposes of offence and defence is arm 33 P. L. R. 1914.

23. The true criterion is not whether any given Dah is *upyat* but what was the intention of the maker. 68 I. C. 818=1923 R. 23 (1)=11 L. B. R. 381.

24. In order to fall under this section the weapon need not be in serviceable condition. 21 M. 360, 1923 L. 617.

25. "Chhavi"—Everything which has a large axe like blade curved or otherwise with an arrangement of ring for fastening it to the handle and a handle of considerable length is chhavi. 1 P. W. R. 1914=33 P. L. R 1914.

26. Empty brass ·405 and cartridge case which cannot be reloaded in India is not an arm, 87 I. C. 927=26 Cr. L. J. 1034=1925 A. 498=23 A. L. J. 455, 6 L. R. A. Cr. 127. 87 I. C. 26 Cr. L. J. 1039.

27. "Ammunition" does not include 'Patakhas.' 53 A. 226.

Ss 5-16.

1. Exemption only applies to *kirpans* carried by Sikhs but not to manufacture of *kirpans* 3 L. 437=1923 L. 267=77 I. C. 230.

2. The word manufacture does not include repair. 1 Weir 653—6. 5 L. 308=1924 L. 600, 1930 B 153=125 I. C. 435=31 Cr. L. J. 847.

3. A servant carrying gun and shooting under the orders of his master is not guilty. 1881 A. W. N. 7, 22 A. 118 (120), 51 I. C. 208, 38 I. C. 329, 47 M. 438=1924 M. 668. =81 I. C. 623, 13 C. W. N 124

4. A person exempted from the operation of Act can send a servant to shoot for him. 38 I. C, 329.

5. A servant possessed his master's gun who though licensed was dead is guilty. 14 B L. R. 501=15 I. C 797.

6. Sikhs are exempt for possessing *kirpan*, which is another word for sword. 5 L. 308 =1924 L. 600, 77 I. C 230

7. A person who applied for permission to sell gun is not guilty for selling it, although he sold it before permission being granted to him. 1 Weir 657.

8. A person lawfully entitled to possess arm, signing the prescribed receipt of purchase in the name of another, is guilty of forgery. 43 C. 421.

9. Mere temporary possession of arm by servant for the purpose other than its use, *viz.* fetching it from the neighbouring village, is no offence 37 B. 181=18 Cr. L. J. 860, 24 A. 454, 1933 P. 600=146 I. C. 498 (1).

10. Possession of a part of fire arm is prohibited. 42 C. 1153.

11. There is no provision in S 14 requiring a person to deposit a spear. It refers to fire-arms only. 29 I. C. 544=16 Cr. L. J. 528.

12. Where a person kept a gun for some time and gave it to another to keep it for him is not guilty under S. 19 (*f*). 37 B. 181.

13. The knowledge of the existence of fire arm found in a hut on search should not be imputed to any other than the occupier. 41 C. 350

14. To pass an order confiscating a gun because of mere delay in renewing the license is not legal. 22 I. C. 165=15 Cr. L. J. 21.

Arms Act—(contd.)

15. A person getting a licence for protection cannot use it for sport. 1 Weir 663.

16. When a Havildar was appointed Jamadar with a retrospective effect from the date prior to the commission of offence, his conviction must be set aside. 27 P. R. 1885.

17. Possession of master's gun for unlawful purpose is offence. 1935 A. 916.

Ss. 19—20.

1. Carrying gun by a cousin of licencee in a marriage procession in contravention of the terms of licence is unlawful. 1923 B. 35=67 I. C. 722=23 Cr. L. J. 450.

2. Recovery of gun not in the presence of witnesses, cannot be relied upon. 1933 L. 466.

3. In a case under Arms Act, the question of exclusive possession cannot be raised for the first time in appeal. 1 P. W. R. 1914.

4. Whether there is ammunition for the use of gun in the immediate control of the accused or not, as he goes holding the gun, he goes armed. 77 I. C. 736, 1925 Sind. 177=25 Cr. L. J. 448.

5. Arms found in a joint family house, accessible to many, cannot be held to be in the possession of any. 41 I. C. 157, 21 C. W. N. 839.

6. Sale of clasp knives is not punishable under S. 19 (*a*). 25 I C. 337.

7. Intention is no ingredient of offence under S. 19 (*c*). No sooner a person enters British India with unlicensed arms, he is guilty. 35 M. 596, 37 B. 181.

8. A servant going with his master's gun to shoot is guilty of going armed. 9 I. C. 720, 24 A. 54. *Cont.* 38 I. C. 329, 41 C. 11.

9. Possessing of arms without licence by a minor comes under S. 19 (*f*). 40 A. 420.

10. Person keeping the gun for sometime and then handing over to another is not guilty under S. 19 (*f*). 10 I. C. 688=15 C. W. N. 440 *Cont.* 27 P. W. R 1915=30 I. C. 461.

11. Chhavi found in the joint possession of two accused, there is no exclusive possession and they are entitled to the benefit of doubt. 1923 L. 513 (1), 65 I. C. 447 (1).

12. Discovery of arms in consequence of information by the accused that he buried it in fields comes under Ss. 19 (*f*) and 20. 72 P. L. R. 1916.

13. Carrying revolver in pocket comes under S. 19 (*f*) and not S. 20. 27 P. W. R. 1915 Cr.

14. The concealment of Chhavis and other arms from the possession of accused at his information comes under S. 20. 1923 L. 434.

15. Gun placed in a cabin in order to conceal it from the police is punishable under S. 20. 1923 L. 79=68 I. C. 833, 8. P. R. 1915, 9 P R. 1912 not followed.

16. Accused took the chhavi blade from the place of concealment which fitted the dang, and threatened a Railway servant, is guilty of offence under S. 19 and not 20. 1923 L. 10.

17. A sentence of 3 years under S. 20 is very heavy. 32 I. C. 672, 66 I. C 995.

18. S. 20 does not apply to ordinary case of concealment but where export or import is attempted 9 P. R. 1912=128 P. L. R. 1913, 6 L. 151=1925 L. 395 (2)=86 I. C. 221, 27 C. 692. *Cont.* 1933 C. 692, 1934 C. 705.

19. Pistol was found in the possession of servant in the shop The master is not guilty. 1923 A. 33=69 I. C. 457=23 Cr. L. J. 729.

20. Offence under S. 19 (*a*) is keeping arms for sale and not keeping arms only 42 C. 1153.

21. If the place where an article is found is accessible to several persons, it cannot be held to be in the possession of any person. 13 C. W. N. 861, 15 A. 129, 41 C. 350, 18 C. W. N. 498, 92 I. C. 589.

22. The head of joint Hindu family cannot be punished for arm found in the common room. 52 P. R. 1905, 21 C. W. N. 839.

23. During communal riots, brother of the licensee took his brother's gun and fired shot in air to scare away the mischief makers, *held*, no offence is committed under S. 19 (*f*). 47 A. 267=1925 A. 175=26 Cr. L. 479.

Arms Act—(*contd.*)

24. The son of licensee may be convicted for possessing father's gun for shooting birds 47 A. 267=1925 A. 175=85 I. C. 159. Sentence of fine sufficient.

25. Pistol and cartridges were found hidden *in a room* frequented by number of people, accused who is a tenant is not guilty of illegal possession. 92 I. C. 589.

26. Where arms discovered in the possession of the accused *might* have been placed by his servant, conviction under S. 19 (*f*) is illegal. 97 I. C. 743=8 L. L. J. 464

27. Possession of empty cartridge that cannot be reloaded in India is not an offence under S. 19 (*f*). 1926 A. 255=91 I. C. 808, 1925 A. 498.

28. Servant of the holder of a gun license who is merely carrying it to the magistrate for renewal of licence is not guilty. 41 C. 11 16 A. 276, 35 C. 219, nor when he takes it to blacksmith for repairs nor the blacksmith. 16 A. 276.

29. Servant of exempted person can carry arms of the master. 24 A. 454. But he cannot use it himself, although he can use it for the master. 81 I. C. 623. He can even shoot game for the master. 51 I. C. 208.

30. When the gun is given for repairs in the neighbouring town, the person in possession of it is not guilty. 24 A. 302. 1929 A 720=30 Cr. L. J. 984.

31. When master and the servant believed that there was nothing wrong in shooting, by the latter, the order of the confiscation is wrong. 47 M. 438=81 I. C. 623.

32. Where article is discovered by reason of information given by accused, conviction based on that evidence is legal 1927 L 900=28 Cr. L. J. 250, 1923 L. 734.

33. Each case of concealment of arms must be decided on its own facts. 8 P. R. 1915, 1923 L 79, 68 I. C. 833, 1933 L 231.

34. To bring the case under S 20, the possession must be furtive against public servants Railway servants or public carriers and such cases occur when arms are illicitly imported or exported. 1926 L 262=7 L. 65=94 I. C. 401, 1925 L. 395=86 I. C 221=6 L. 151.

35 Where arms and ammunition are hidden under a bag covered with a chadar worn by the accused, the offence falls under S. 20. 1926 L 61=89 I. C. 1027.

36 S 20 does not apply to ordinary cases of concealment Where the intention of accused was that the pistol might not be shown to public servant, it comes under S 20 96 I C 390, 68 I C. 833, 42 C. 1153. *See* 1933 C. 692, 1933 P. 493.

37. Mere denial on the part of accused that he has no arms in the house does not constitute concealment 28 A. 302.

38. Indifference on the part of accused to conceal unlicensed *chhuri* disproves the intention requisite to constitute the offence under S 20. 1923 L. 10=83 I. C. 726

39 A concealment in loin cloth at a public fair comes under S. 20 8 P. R. 1915 Cr.

40 Concealment of a dang with detached blade is punishable. 64 I. C. 847.

41. "Going armed" indicates two things (1) an intention to use and (2) possibility of using it. 1925 M. 585 (1)=87 I C. 916=26 Cr. L J. 1028

42. Approver disclosed his illegal possession of fire arms His trial under S. 20 is illegal in view of pardon 63 I. C. 827.

43. If a person carries pistol, dagger or chhuri blade, he naturally puts it in his pocket or *dab*, while going in the bazar, street, or Court house, it cannot be said that the *intention specified in* S. 20 is present. 1927 L. 561=28 Cr. L. J. 671.

44. Cartridge is found in a house. It might have been placed by his brother, who is retired military officer, held, accused was not guilty. 1927 L. 726=28 Cr. L. J. 339.

45. Subject of native state carrying gun in British India without licence is guilty. Sentence of fine is proper. 1929 Oudh 157=115 I. C. 839 (1)=30 Cr. L. J. 543.

46 Cartridges were discovered in a house occupied by strangers and owners. Strangers are not guilty. 1929 C. 302=119 I. C. 297 (1)=30 Cr. L. J. 1038.

47. A person in possession of arms ran away when challenged by a constable, intentions under S 20 is established but not in the case of his companion who ran away and was without arms. 1929 L. 576=31 Cr. L. J. 79, *Cont.* 55 A. 681.

Arms Act—(contd.)

48. Spear concealed next to skin, intention of S. 20 is not established. 1929 L. 576=31 Cr. L. J. 79.

49. House occupied by joint family, initial presumption is that head of family is in possession, although he is 80 years old. 1929 L. 872 (1)=30 Cr. L. J. 668.

50. Carrying spears with iron heads for gymnastic parades is "going armed." 1930 B. 174=126 I. C. 881=31 Cr. L. J. 1109.

51. Railway passenger having revolver and cartridges in the inner Coat was guilty under S. 20. 1931 L. 663=132 I. C. 855=32 Cr. L. J. 995.

52. Finding of a chhavi with a dang to fit in with the blade, in a house would fall under S. 19. 1931 L. 561 (1)=1931 Cr. C. 849.

53. Accused cannot be acquitted under S. 19 (*f*) because the search was irregular. 131 I. C. 441=1931 Oudh 115=32 Cr. L. J. 699.

54. R a boy of 18 occupied with another a house, searched by the police. A lady of the house produced the key of the room from which two cartridges and gun were recovered. Held, R. was not guilty. 1931 Oudh 115=32 Cr. L. J. 699=131 I.C. 441.

55. Appellate court can alter the conviction from one under S. 20 to S. 19. 130 I. C. 437=1931 Sind 9=32 Cr. L. J. 517.

56. Conveying revolver in a trunk in a Railway train would fall under S. 20. 1931 L. 571 =33 Cr. L. J. 110=32 P. L. R. 651, 9 L. 302, 120 I. C. 273.

57. Intention to conceal arm is the real test under S. 20. 60 C. 545, 1931 Sind 9.

58. Where the accused was of good character and was not engaged in any criminal undertaking, a sentence of 3 years' rigorous imprisonment was sufficient under S. 20. 1931 L. 663=132 I. C. 855=32 Cr. L. J. 995.

59. If unlicensed gun is found in the house, presumption is that it was in the control of all the male members of the family. Accused has to prove non-possession. 1932 A. 441=139 I. C. 153=33 Cr. L. J. 719=1932 A. L. J. 570.

60. If the possession of pistol was not intentional, sentence should be reduced to one year. 1932 L. 365=137 I. C. 141=33 Cr. L. J. 413.

61. Possession of arms of which the licence is not renewed is offence under S. 19 read with S. 14. 60 C. 445=1933 C. 218=34 Cr. L. J. 363.

62. A person convicted under S. 411 for possession of a stolen revolver, can be convicted under S. 19 (*f*). 1933 Oudh 470.

63. When an accused charged under S. 19 absconds and is again found in possession of arms when arrested, he can be convicted for the latter possession. 1933 L. 231.

64. Sanction of District Magistrate is necessary in the Frontier Province. 1933 Pesh. 69.

65. Conviction without sanction is illegal. 1933 L. 869.

66. Mere pointing out a place from where revolver is found is insufficient. 1933 L. 314.

67. Mere negotiation for sale of a weapon is no offence. 60 C. 445.

68. Arms were found under gunny bag spread in a bullock carts ; only the persons sitting on it are guilty. 1934 Oudh 200=35 Cr. L. J. 973.

69. No sanction for prosecution under S. 20 is necessary. 1934 C. 705.

70. Transfering rifle to non-license holder is offence. 1935 Pesh. 103.

71. Being in possession of unlicensed revolver a sentence of one year is inadequate. 1936 A. 850.

S. 22.—

Master is liable for the act of his manager for selling arms to unlicensed persons. 23 B. 423.

S. 24.—Confiscation of arms.

If the license holder fails to take precautions for safe custody, his licence is liable to be confiscated. 1935 Pesh. 163.

Arms Act—(*concld.*)

S. 25.—

1. Order for the search of arms is a judicial act. 42 M. 96.
2. District Magistrate must comply with S. 25. 39 C. 953, 36 C 433.
3. S. 25 refers to a case in which Magistrate considers that arms are kept for illegal purpose or to endanger the public peace. 8 C. 473.
4. An illegal search does not vitiate conviction. 47 A. 575. *See* 1935 P. 465.
5. Magistrate must record grounds of his belief in order to avail himself of the protection of that section from the consequences of his action. 36 C. 433, 15 A. 129.

S. 27.—

1. A volunteer is generally exempted to carry arms. 22 A. 323.
2. Servant of exempted persons carrying the arms is not liable to punishment. 51 I. C. 208, 22 A. 118, 24 A. 454.

S. 30.—

1. Sub Inspector of Police can search for arms without a warrant from the Magistrate 47 I. C. 801.
2. "In the course of any proceedings instituted" implies that the proceedings must have begun. Search without witnesses is illegal. 47 A 575=1925 A. 434.
3. S. 30 requires the presence of some specially empowered officers besides the officer conducting the search 8 C. 473
4. Even if search is illegal, the conviction is sound if evidence is conclusive 35 A. 575, 1929 A. 68=116 I. C. 29=30 Cr L. J. 566.

S. 31.—

In a case of technical offence, a nominal sentence is always quite sufficient to meet the ends of justice. 23 P. W. R. (Cr.) 1910.

ARMY ACT—Ss. 69-70.

An offence of criminal breach of trust is triable both by Criminal Court and by a Court-Martial and it rested with the Military authorities to decide whether the accused should be tried by Court Martial. 1928 All. 672 (673)=29 Cr. L. J. 803.

ARREST.—S. 46 to S. 59, Cr. P. C. *See* Wrongful confinement.

1. Aid in making—*See* Aid to Police officer and Magistrate.

2 By Abkari Inspector—*See* Wrongful confinement —3.

3. By Bailiff of Judgment-debtor—*See* Wrongful confinement.—4.

4 By Magistrate Ss 64, 65, Cr. P. C.

1. Where a Magistrate travelling in a Railway carriage requested the accused, his fellow passengers to desist from smoking and on their contemptuously refusing to do so, arrested and tried them Held, that the Magistrate was disqualified from trying the case. Ratan Lal 339.
2. Magistrate has authority not only to issue a warrant of arrest but arrest himself. 31 B. 438.

5. By Magistrate in the middle of trial.

1. A magistrate is not bound in the middle of trial, to arrest any person against whom there is some chance of getting conviction, and to start *de novo* the original trial 85 I. C. 236. 25 M. 61 exp.
2. The hasty proceeding as placing a witness on his trial during a case is bad, as the necessary result is to intimidate subsequent witnesses. 9 S. L. R. 176, 21 Cr. L. J. 29, 8 B. H. C. R. 126

6 By Police officer. S. 54, Cr. P. C.

1. A complaint of rape was made by a girl and the Sub-Inspector deputed a constable to arrest accused. The constable was resisted. Held, that though the constable was not armed with warrant, he had authority under S. 54 to arrest. 1924 A. 201=81 I. C. 140=25 Cr. L. J. 652=21 A. L. J. 791.

Arrest—(contd.)

2. Village chowkidar is not a police officer. 27 C. 366, 35 C. 361, 41 C. 17, 1929 A. 935=120 I. C. 205=31 Cr. L. J. 12=1930 A. L. J. 242

3. When warrants are issued by a magistrate against a person, any police officer, even though he is not entrusted with the execution of such warrant, can arrest under S. 54. 40 I. C. 709=18 Cr. L. J. 709=40 M. 1028, 22 Cr. L. J. 758=1922 A. 457.

4. Where a complaint is made of a cognizable offence, a police officer can arrest without warrant, even if he is not in uniform, 21 A. L. J. 791, 1922 A. 457=64 I. C. 278 =22 Cr. L. J. 758, 81 I. C. 140=1924 A 201=25 Cr. L. J. 652.

5. Powers to arrest without warrant must be cautiously used. 44 C. 76.

6. When a person is arrested on suspicion of dacoity, he should be discharged when there is no evidence and should not be detained so that the police might institute proceedings against him under S. 110. For this purpose he can be re arrested under S. 55. 43 A. 186=1921 A. 278=59 I. C 547=22 Cr L. J. 115

7. A warrant issued by the police of any other province is a credible information within S. 54 (1). 36 A. 6. *See* S. 54 (9).

8. When a complaint of a cognizable offence is sent by magistrate to police under S. 202 and directed the police to make investigation and report, the police officer can arrest without warrant, as the complaint under S. 200 was a credible information. 2 Pat. 379=1923 P. 547=72 I. C. 375=24 Cr. L. J 375, 21 A. L. J. 791.

9. Omission to notify the substance of the order of arrest is an irregularity cured by S. 537, Cr. P. C. 40 I C. 314=18 Cr. L. J. 666, 1926 P 424=98 I. C. 254, 1926 P. 53.

10. A policeman of a Native State cannot arrest in British India, for offence committed in the State. The subsequent custody of the chaukidar in British India is illegal. 29 A. 377, 19 B. 72

11. The detention and arrest of members of the public are not matters of caprice. Mere fact that a party of persons are in a certain place at a certain time does not mean that they are about to engage in criminal act, therefore there is no legal justification for the arrest of those persons by the police and they are not guilty of rioting if they oppose the arrest. 1926 Pat. 560=90 I. C 712=26 Cr. L. J. 1603.

12. The Code does not deal with arrest for the prevention of crimes except under circumstances specially mentioned. 46 M 605=1923 M. 523=24 Cr. L. J. 599.

13 A police officer entering into a building for the purpose of arresting suspected persons will not be liable for trespass. 36 C. 433.

14. Unnecessary force need not be used in arresting a supposed thief 32 P. R. 1894 Cr.

15. For an arrest under S 54 (7) two things are necessary, knowledge by policeman affecting arrest and actual existence of warrant issued under Extradition Act. 1933 L. 159=34 Cr L. J 679.

7. By Private person S 59, Cr P. C. *See* Wrongful confinement—5

1. S. 59 gives power to a private person to arrest any person who in his view, commits a cognizable non bailable offence Arrest by a person in whose presence the offence is not committed is not justified 1922 L. 73=64 I C 371=19 P. L R. 1922, 35 C. 361.

2. The intention of S. 59 is to prevent arrest by a private person on mere suspicion or information. 11 M. 480.

3. A private person has no power to arrest an accused who is running away after committing murder, when murder did not take place in his presence 1922 P L R 19 =64 I. C. 371=23 Cr. L. J. 3=1922 L 73

4. "In his view" in S. 59 means "in presence of" or "within sight of and not "in his opinion". 1926 P. 53=89 I. C. 1030=26 Cr. L. J 1462, 1933 P. 508, 1922 L. 73.

5. Where a person arrested a man with a pot of toddy in his hand, standing on the ground and two of his confederates, climbing the tree, held, that the man on the ground should be deemed to be committing theft "in the view" of his arrester, 1924 M. 384=81 I. C. 312=25 Cr. L. J. 792.

6. Where an accused suspecting complainant to have committed an offence under S. 366, I. P. C., arrested him and instead of taking him to the Police Station, took him to

Arrest—(*contd.*)

Dharmsala, the accused is not protected by S. 59 and is guilty under S. 342, I. P. C. 98 I. C. 594=27 Cr. L. J. 1378=8 P. L. T. 204.

7. A chowkidar as a private individual has power to receive custody of person arrested under S. 59 and to take him to Police Station. 1932 P. 214=33 Cr. L. J. 572.

8. A person entering a house with the intention of carrying out his armour with married woman, can be arrested under S. 59 Owner can pursue him if he evades arrest and to use all means necessary for securing him In this case axe blow was given which caused grievous hurt. 1935 Pesh. 83=156 I. C. 704.

8 Escape from —*See* Escape—2 and S. 29, Police Act.

1. Chowkidar is not a police officer and hence escape from his custody is not unlawful 20 I. C. 750=14 Cr. L. J. 494=41 C. 17, 27 C. 366=4 C. W. N. 252.

2. Two constables were taking an undertrial prisoner by a camel cart on a dark night. The prisoner wanted to get down to make water, who got himself free from the rope and bolted. Held, the constables are not guilty. 1925 O. 281=26 Cr. L. J. 130

Delay in—*See* Delay —4.

9. Examination of accused before.—*See* Examination of accused.

10. Exemption from.—S. 135, C. P. C. *See* Wrongful confinement—.

A pleader is exempted from arrest under Civil Process under S. 135, C. P. C. while attending court. If arrested he can claim exemption and get himself released, but such arrest will not entitle him to claim 'damages for tort. 1930 R. 131=7 R. 598.

11. Hand-cuffs—

1. Handcuffing is a safe precaution adopted by executive order, but is not legally incumbent. 18 P. R. 1871 Cr.

2 Judge can direct the removal of chains or fetters unless satisfied by a representation from the proper officer that they were necessary. 4 M. H. C. R. App 69.

12 Illegal or irregular.

1. When a warrant of arrest is issued, the officer making the arrest must have the warrant *in his possession*, otherwise the arrest is illegal. 5 A. 318.

2. When the act of a public servant is entirely *ultra vires* in making an arrest, the right of private defence may be exercised against him. 13 B. 168, 16 C. W. N. 549,

3. A police officer arresting a person unjustifiably is guilty of an offence under S. 220 I. P. C. 40 M. 1028, 36 A. 6.

4. Illegality of arrest does not vitiate extradition proceedings. 39 C. 164.

5. Arrest under a *bona fide* belief is a good defence. 12 B. 377, 47 M. 442.

6. Magistrate having jurisdiction to take cognizance of an offence should not consider the question of legality of arrest. 26 M. 124.

7. An arrest by a mere declaration without the actual touch of the process server is illegal under S. 46 (1), Cr. P. C. 113 I. C. 288=30 Cr. L. 7. 128.

8. Mere showing a warrant is not sufficient. An opportunity should be given to the person arrested to read it. (S. 80, Cr. P. C), 26 C. 748.

9. A Police Officer making arrest without observing the provisions of S. 80 may be able to justify his action under S. 46 (2). 55 C. 881=1929 C. 174=30 Cr. L. J. 703.

10. Arrest of foreign subject in foreign territory without the intervention of the State authorities is illegal. 6 P. R. 1899 Cr.

11. The conviction of an accused is not invalid on account of illegality of arrest. 17 P. R. 1906 Cr, 6 P. R. 1899 Cr.

12. Rescue from illegal arrest is not punishable. 12 P. R. 1898 Cr.

13. Arrest at midnight of accused lurking armed in a village inhabited by professional dacoits is legal. 7 P. R. 1869 Cr.

14. Resistance to the execution of an illegal warrant is no offence. 16 P. R. 1904 Cr.

Arrest.—(*contd.*)

15. The absence of the seal of the Court makes the warrant void. An arrest made in execution of such warrant is illegal. 42 C. 708.

16. Where certain arrests were made without the substance of the warrants being notified to the persons arrested, the omission was cured by S. 537, Cr. P. C. 18 Cr. L. J. 666.

17. The irregularity of arrest is not a ground for invalidating proceedings and trials subsequent to the arrest. 6 P. R. 1899 Cr., 1 P. R. 1911 Cr. *Cont.* 7 Bur. L. R. 83.

18. An arrest by mere oral declaration is sufficient. 113 I. C. 288=30 Cr. L. J. 128.

19. If the warrant is not shown to the person to be arrested, the arrest is illegal. 5 C. W. N. 843.

20. Endorsement of the name of constable actually making arrest is not necessary. 1934 A. 879, 18 A. 246 Expl.

21. When the warrant for the arrest of debtor was initialled and not signed in full, it is no defence to resist the arrest. 8 A. 293, 19 M. 349, 21 M. 296, 13 M. 131, 27 A. 491.

22. When bailable warrant for the arrest of woman under S. 498 was not shown and no opportunity to produce bail was given, the arrest is illegal and S. 99 does not apply. 1935 A. 913=1935 Cr. C. 1129.

13. Of a deserter.

Police can arrest a deserter from army without warrant. 260 P. L. R. 1912.

14. Of a foreign subject.

1. Arrest of a foreign subject in foreign territory without the intervention of state authorities is illegal. 1 P. R 1896 Cr., 6 P. R. 1899 Cr.

2. An arrest by a Police Officer of the Native State, in British India, of a person suspected of an offence committed in state is illegal. 29 A. 377.

3. How far an arrest in a ceded territory is illegal. *See* 1 P. R. 1896 Cr., 6 P. R. 1897 C.

4. Arrest of a person at Gwalior Railway Station for offences committed in British India is illegal. 1 L. 406.

15. Of Habitual offender. S. 55, Cr. P. C.

1. S. 55 is independent of S. 110, Cr P. C., although proceedings under Chapter VIII might follow on the arrest of a habitual offender under S. 55. 1930 P. 106=124 I. C. 638, 35 A. 407, 1926 S. 190=94 I. C. 404.

2. Arrest under S. 55 (c) is not justified on mere suspicion that accused was concerned in several offences. 47 M 442=1924 M 555=81 I. C. 51.

3. After acquittal on the charge of dacoity, it is illegal to detain the accused for 12 days in order that proceedings under S. 110 may be started against him 41 A 483.

4. Officer-in charge of Police Station, Calcutta, can arrest under S. 55 without warrant. 31 C. 557.

5. When the police arrest a person under S. 55 he should be given the option of bail. 14 A. 45.

6. Police cannot arrest under S. 55 persons who earn livelihood by means of gambling. 3 L. B. R. 94=3 Cr. L. J. 20.

16. Of Judgment debtor. *See* Wrongful confinement.—2

17. Of witnesses. Ss. 90—93, Cr. P. C.

A Magistrate is competent to admit to a bail a recalcitrant witness against whom he may issue a warrant of arrest legally. (1881) 2 Weir 39.

18. On an order from a police officer. S. 56, Cr. P. C.

1. S. 56 (1) does not require a chowkidar on his own initiative to show to the accused an order given to him by the officer in charge of police station. 1925 Oudh 544=98 I. C. 427=26 Cr. L. J. 795.

2. Where a common certificate is given to a constable under S. 56 for effecting the

Arrest.—(*contd.*)

arrest of a person but the constable arrests him without notifying the substance thereof, the arrest is not illegal, as he could arrest under S. 54. 5 Pat. 533=1925 P. 424=98 I. C. 254=27 Cr. L. J. 1310.

3. A chowkidar is an officer subordinate to an officer-in-charge police station. 10 C. W. N. 287=3 Cr. L. J. 201.

4. Mere writing of the name by subordinate on the back of the warrant and signing the endorsement by the police officer does not constitute the warrant an order in writing. 18 A. 246.

5. The issuing of a warrant by a magistrate is no bar to a police officer issuing order under S. 56. 18 A. 246.

6. Police constable deputed by police officer cannot arrest without complying with S. 56. 1936 R. 119=37 Cr. L. J. 463.

19. On breach of bond. S. 92, Cr. P. C.

1. Magistrate can order the arrest of a person who does not appear when he is bound to appear by virtue of the bond. 1919 A. 155.

2. S. 92 does not apply where prior to time fixed for appearance, arrest by warrant is sought to be effected. 17 Cr. L J. 132, 38 M. 1088.

20. Outside British India —*See* British India—1.

21. Rescue from. *See* Escape or rescue from lawful custody.—4.

1. Rescue from illegal arrest is not punishable. 12 P. R. 1898.

2. In a prosecution under S. 498 I. P. C., on the application of the complainant, that the abducted woman would escape, the magistrate issued warrant against her. Held that omission to record reasons is only an irregularity and the persons rescuing her from the custody of constable are guilty. 22 Cr. L. J. 111.

22. Resistance to S. 353, I. P. C., S. 46, Cr. P. C. *See* Assault on Public Servant. Unlawfully assembly.

1. Where a police constable suspecting a person carrying stolen cloth, took hold of the pieces and was obstructed, held, that the person was legally arrested under S. 54 (5). 12 B. 377.

2. It is for the prosecution to show that constable had authority to arrest. 1924 M. 555=47 M. 442=25 Cr. L. J. 563=81 I. C. 51.

3. A warrant signed by a Magistrate who is not the presiding officer within S. 75, Cr. P. C., is invalid and resistance to an arrest made under such warrant is no offence under S. 352, I. P. C., 39 I. C. 494=18 Cr. L. J. 526.

4. If a person forcibly resists the endeavour to arrest him, police officer can use force to arrest him. But right to cause death of a person not accused of offence punishable with death or transportation. S. 46, Cr. P. C., 2 W. R. 9.

5. A shot over the head of the suspect is justified by S. 46. 1933 Sind 193=34 Cr. L. J. 751.

23. Right of Private Defence against—illegal—*See* Right of Private Defence—21.

24. Search of accused at the time of—. S. 51, Cr. P. C. *See* Search—11.

25. To prevent offences.—S. 151, Cr. P. C.

If without emergency an arrest is made under S 151, to prevent a cognizable offence, it is illegal. 1930 L. 348.

26. Warrant of—*See* Warrant.

27. When—amounts to wrongful confinement. *See* Wrongful Confinement—2.

28 What amounts to—Touch. S. 46, Cr. P. C.

In making an arrest the person authorized to make it shall actually touch the body of the person to be arrested unless there be a submission to the custody by the word or action. 1930 R. 131=123 I. C. 137, 6 W. R. 60 Rel. on.

ARSENIC—*See* Poison—2, Murder—23—35.

ARSON—*See* Fire.

ASSAILANT, POSITON OF—. See Wound—4, Weapon—11.

ASSAULT—S. 352, I. P. C.

1. Charge and conviction.

1. In a charge under S. 147, the conviction can be had under S. 352 but not for abetment of assault. 1922 M. 110=65 I. C. 862=23 Cr. L. J. 206.

2. A person sent up under S. 122, Bombay Police Act, can be convicted under S. 352. 1926 B. 255=93 I. C. 896=27 Cr. L. J. 496, 36 C. 869.

2. Criminal Force. *See* Criminal Force. Ss. 349—353, I. P. C.

3. Essentials and Evidence.

1. Pulling the trigger of an unloaded gun is not an attempt to murder but is only an assault. 1 R. 209=74 I. C. 1042=1923 R. 251=24 Cr. L. J. 850.

2. Resistance to unauthorised search by Police officer is no offence under S. 352. 1923 A. 433=71 I. C. 996=24 Cr. L. J. 276.

3. When the deceased with an enlarged spleen was struck by the accused, the offence was not culpable homicide but using criminal force under S. 352. 21 P. R. 1876.

4. If a person throws a stone or bottle at another or into another's house, he will be guilty under S. 352 irrespective of consequences. 3 L. B. R. 194=4 Cr. L. J. 201.

5. If one raises a stick to another and the latter moves how little so ever to save himself, it is assault. 23 I. C. 183=12 A L. J. 154=15 Cr. L. J. 231.

6. But it is not an assault if before the stick is raised, the other runs away out of sheer fright. 1 Cr. L. J. 1057=1 A. L. J. 602.

7. A Sub-Inspector went to the house of a bad character to see if he was there. Sub-Inspector wanted to take his thumb impression, whereupon the accused brought a lathi saying that he would break the head of anybody attempting to take his impression. Held, he was guilty under S. 352 and not S. 353. 30 C. 97.

8. Where a Police officer merely gave a verbal threat to use force, if the passenger did not vacate his seat in the train, it is not an assault. 13 I. C. 237.

9. One of the accused hit the constable and others surrounded the constable in a threatening manner. Held, the latter could not be convicted of assault. 7 I. C. 416=11 Cr. L. J. 483.

10. A pleader turned out a person from his room in the District Court He, without using violence is not guilty of assault. 15 Bom. L. R. 1039=15 Cr. L. J. 14.

11. Medical examination of an arrested person without his consent amounts to assault. 1931 C. 601=134 I. C. 1053=33 Cr. L. J. 11.

12. Whether a particular act amounts to assault depends upon circumstances of each case. Petitioner interposed between the officer and the cattle that were being removed under his orders and began to abuse and went away after giving threats and came back armed with a lathi, while his companions were sufficiently close to the officer. Held, that this amounted to assault. 1935 P. 214=36 Cr. L. 7. 714.

13. Accused went with bailiff to execute a warrant. Judgment-debtor was absent. His wife tried to shut the door and he pushed it violently and she fell down unconscious in great pain. Accused was guilty under S. 352 and S. 79 could not be availed of. 1934 Sind 52=34 Cr. L. J. 963.

14. If the search by police is illegal, the pushing of Sub-Inspector by accused is not covered by S. 352. 1932 P. 66=10 P. 821.

4, Events leading up to—.

Events leading up to and preceding assault must be considered. 1934 R. 44=35 C. L. J. 855.

5. On Provocation. *See* Assault on Provocation, S. 358.

6. On Public Servant. *See* Assault on Public Servant, S. 353.

7. On Woman. *See* Assault on Woman, S. 354.

Assault—(*contd.*)

8. Procedure.

1. A Civil Court peon may file a complaint under S. 352 without the sanction of Civil Court, when he was assaulted by persons while effecting an attachment. 31 C. 664
2. No hurt but criminal force was used to Public Servant, charge was altered from S. 323 to 352, I. P. C. 45 *A.* 142=1923 A. 87=71 I. C 503=24 Cr. L. J. 151.
3. A person discharged under S. 352 cannot be retried for hurt. 7 W. R. 15, 16 W.R 3

9. Sentence

1. An assault on a citizen for appealing to the police needs a deterrent sentence. 1926 B. 255=93 I. C. 896=27 Cr. L. J. 496=28 Bom. L. R. 291.
2. Persons may not without actually committing assault and the theory that S. 147 embraces S. 352 is fallacious. Separate sentences can be awarded. 1928 M. 21=106 I. C. 338=29 Cr. L. J. 2
3. For assault the usual sentence is fine. Imprisonment in default of fine cannot exceed three weeks 16 W. R. 42

10. To dishonour. S. 355, I. P. C

1. Accused while under trial, struck a Sub-Inspector of Police who was in witness box giving evidence against him, he was guilty under S. 355. 27 A. W. N. 186.
2. When a low class woman polluted the body of an orthodox Brahmin while performing his prayers, by the splash of stream water, who caught hold of her to express regret, held, that there was no intention on the part of Brahmin to dishonour the woman He was not guilty as he acted under grave and sudden provocation. 1927 N. 47=96 I. C. 859=27 Cr. L. J. 1003.

ASSAULT ON PROVOCATION. S. 358, I. P. C.

1. Disturbing an orthodox Hindu in prayers by a low caste woman who was assaulted, held there was a grave and sudden provocation and accused was not guilty under S 355 96 I. C. 859=1927 N. 47=27 Cr. L. J. 1003.
2. Accused were beating drums at night to celebrate a festival, the complainant got annoyed and snatched away a drum and threatened the festive gathering who retaliated by assaulting and broke the arm of the intruder. The accused were guilty under S. 352 only. 39 I. C. 687.
3. Assault on provocation is an offence in which provisions of S. 95 should be read side by side. Gour's Penal Code, S. 358.
4. Accused assaulting under grave and sudden provocation is guilty under S. 358 1934 A. 872.

ASSAULT ON PUBLIC SERVANT. S. 353, I. P. C.

1. Illegal arrest. *See* Arrest—12.

2. Illegal search. *See* Search—10.

1. No offence is committed where no harm beyond a push is done to a Police officer entering house without search warrant. 1929 A. 903=30 Cr. L. J. 1145, 10 P. 821.
2. Unless the provisions of S. 165 (3) and S 166 are complied with reistance is no offence. 30 I. C. 141, 1923 A. 433 (1)=24 Cr. L. J. 276.
3. A Sub-Inspector suspected stolen property in a house. He seated himself outside and asked a constable to search. The accused asked the constable for a list of articles to be searched and none was produced Held, that his pushing him out was no offence 17 M. L. J. 323=6 Cr. L. J. 105. 19 M. 349 Dist.
4. Resistance to a public officer who is attempting to search a house without proper written order authorising him to do so is not punishable under S. 353. 23 C. 896, 26 C. 630, 1 C. W. N. 223, U. B. R. 1907 Cr.

3. Illegal warrant. *See*—6.

1. Where the warrant is illegal, resistance thereto is no offence. 1934 A. 1016, 51 M. 873=1928 M. 624.
2. No offence is committed in resisting time barred warrant. 1924 N. 68=25 Cr. L. J. 223. But *see* 38 I. C. 744=18 Cr. L. J. 360.

Assault on Public Servant.—(contd.)

3. If the warrant does not show the name of person to be arrested, it is illegal. 51 C. 902.
4. Resistance to warrant executed within time fixed by judge and beyond time allowed by Nazir, is an offence. 1923 M. 687=25 Cr. L. J. 64.
5. Resistance to warrant to attach suppurddar's property is no offence. 1924 L. 667.
6. Resistance to warrant allowing bail is no offence if the person to be arrested is not informed of bail. 16 C. W. N. 549.
7. If an officer is not authorized to sign a warrant, the mere fact that there was practice to have it signed by Deputy Nazir will not make it legal. 1934 M. 206=35 Cr. L. J. 782.

4. On Duty—

1. In order that a public servant may avail of the special protection conferred, his act must be shown to be not only excusable but legal. 18 A. 246, 28 C. 411.
2. The resistance to an act of public servant is legal, when the act is not only illegal but is not done in good faith under colour of his office. 19 M. 349, 21 M. 296, 27 M. 52.
3. Doctrine of self help is always placed before an illegal act. 390 P. L. R. 1904, 51 C. 902=1924 C. 959=83 I. C. 481=26 Cr. L. J. 2.
4. Where the excise officer had not entered upon his duties of making a house search and was assaulted, the offence falls under S 353. 41 C. 836.
5. A constable who made a search in contravention of S. 165 and S. 166, Cr P. C., does not act within his authority and the resistance to such a search is not punishable under S. 353. 30 I. C. 141=20 Cr. L. J. 48.
6. Resistance to a warrant, which did not contain the name of person to be arrested is no offence. 51 C. 902=1924 C. 959=26 Cr. L. J. 2, 47 M L, J. 447.
7. A constable arrested A, against whom there was a warrant of arrest awaiting in the Station House. B interfered and beat the constable. Held, B is guilty under S. 353. 36 A. 6.
8. Authority to make a search by a subordinate must be in writing under S 165. In the absence of such authority the resistance to search is not punishable. 30 I. C. 141.
9. The fact that a person was not donning his official livery is no excuse for an assault on a public servant, if his vocation and position was known to his assailant. 40 I. C. 689=13 N L. R. 87=18 Cr. L. J. 689.
10. If the demand by Tehsil peon was not in legal or proper form, the peon was not acting in the execution of a duty imposed on him by law ; no offence under S. 353 was committed, although persons assaulting were guilty under S. 329. 1931 L. 524=32 Cr. L. J. 853=132 I. C. 214.
11. If the officer is acting illegally, there is no offence under S. 353. 1931 R. 169.
12. Police officer who helps another officer outside jurisdiction but in the District, acts in discharge of his duty. 1925 Sind 280=26 Cr. L. J. 1071.
13. If the act of public servant is not strictly justifiable under law, assault committed on such servant does not fall under S 353 but under S 352. 1933 Sind 174 ; 18 A. 246 Foll 19 M. 349 and 7 B. H. C. R. 50 not foll.
14. By "duty as such public servant" is meant duty imposed by law on such public servant and not acts done in good faith under colour of office. 38 P. W. R. 1913 Cr.=325 P. L. R. 1913.
15. A person cannot claim exoneration from liability under S. 353 because the Court passed a wrong order, if in fact the Court had jurisdiction to pass such order. 40 I. C. 689.

5. On Police Officer.

1. Policer officer deputed in a private place to control traffic was assaulted. Accused is guilty. 1928 L. 230=111 I. C. 665=29 Cr. L. J. 905.
2. Accused abused and spat on the face of investigating Police officer, when he was standing outside Court room after giving evidence. Offence falls under S. 355 and not S. 353. 7 Mys. L. J. 136.

Assault on Public Servant.—(*contd.*)

3. Public servant assaulted when not acting as such, there is no offence under S. 353. 1927 L. 162=99 I. C. 935=28 Cr. L. J. 199.

4. " In consequence of " in S. 353 includes motives which actuated assault, as well as *the cause of assault.* 1927 L. 162=28 Cr. L. J. 199=99 I. C. 935

5. Resistance to Sub-Inspector who had no right to search the house is no offence 1923 A. 433 (1)=71 I. C. 996=24 Cr. L. J. 276.

6. Throwing shoe and abusing constable who prevented accused from holding conversation with prisoner in lock up falls under S 353. 1924 L. 257 (2)=4 L. 448=76 I. C. 29=25 Cr. L. J. 93.

7. Rescuing persons from custody of Polic officer is an offence under Ss. 353 225 43 A. 283=60 I. C. 322=22 Cr. L. J. 210=19 A. L. J. 196

8. Resistance to a distress warrant under Income Tax Act issued by Collector and executed by a Police officer is no offence. 1923 Pat. 388=24 Cr. L. J. 490

9. Two persons were improperly arrested and marched to Police Station by a Forest watcher who was assulted and slapped. Held, it was a trivial offence. 1928 M. 624 =51 M 873=109 I. C. 365

10. A mild assault on a Police officer should not be punished with imprisonment. 1931 P. 342=134 I. C. 432=32 Cr L. J. 1166=12 P L. T. 791

11. If police search was illegal owing to non compliance with the provisions of S 165, the accused cannot be convicted under S. 352 for pushing the Police Inspector 10 P. 821=1932 P 66=33 Cr. L. J. 233.

12 If a constable notified to the accused that he was executing a warrant for his arrest and the warrant turns out to be invalid, the arrest is not validated by the fact that under S 54 (1), Cr. P. C, the Police officer was empowered even without the aid of warrant. Resistance by accused to such arrest is no offence 1932 P. 171=13 P. L T. 135=47 M. 442=1924 M. 555=25 Cr. L J. 563.

13. The prosecution must prove that arrest by police was legal in every way. If the warrant is signed not by a Magistrate who took cognizance of the offence, but by *another 'for' him, the warrant is invalid and accused is not guilty of resistance* 138 I C 844=33 Cr L J. 706=1932 P. 171=13 P. L T. 135 *Cont.* 1932 P. 175.

14 If the warrant of arrest is illegal, there is no offence under S. 352 1932 A 227= 140 I C. 118=33 Cr L J. 887.

15. A constable was informed that gambling was going on in a thoroughfare, he was prevented by the use of criminal force from proceeding in that direction to arrest gamblers. Held that the accused were guilty under S. 353 I. P. C. 1935 A. 516= 154 I. C. 740, 37 A. 353 and 16 Cr. L. J. 589=1915 A. 442 Dist.

16 No offence is committed where no harm beyond a push is done to Police officer entering a house without search warrant. 1929 A. 903=30 Cr. L J. 1145.

17. A constable knocked at the door of a suspected person at midnight but was turned out by *force and was hurt. Held,* that constable was guilty of criminal *trespass* and therefore accused had right of self defence 27 M. 52

18 A Pathan was sent for at Police Station in connection with house breaking. On being abused he threatened the Sub Inspector with a cane. Held, he was guilty under S 353 1936 N. 234.

6 On process-server. Illegal warrant.

1. Resistance to execution of warrant of attachment which does not specify the date on or before which it is to be executed is not illegal 38 I. C 744=18 Cr. L. J. 360

2. Assault on a Tehsil peon ordered to procure camels is no offence. 22 Cr. L. J. 65

3 No hurt was caused to the bailiff who was resisted when executing an illegal warrant No offence under S. 353 committed. 1924 L. 667 (2)=75 I. C. 731=25 Cr. L. J. 43

4. Bailiff whose name did not appear on the warrant but was appointed by Nazir was assaulted. Held, he was acting in good faith while attaching property and assault comes under S 353. 1924 L. 632=76 I. C. 186=25 Cr. L. J. 122.

Assault on public servant—(concld)

5 Public servant attaching property of lessee of defaulter was assaulted No offence under S 353 is committed 1924 M 859 (2)=83 I C 1007=26 Cr L J 223

6 Accused resisting a warrant, the time of which as fixed by Munsif not expired but as fixed by Nazir expired, is guilty 1923 M 687=75 I C 768=25 Cr L J 64

7 Resisting an expired warrant is no offence 1924 N 68=25 Cr L J 223=76 I C 655=19 N L R 183

8 Resistance to Revenue Inspector in execution of distraint for arrears of revenue is an offence under S 363 though the warrant is addressed only to village headman, who is his subordinate 1924 M 539=76 I C 962=25 Cr L J 290

9 Two men were improperly arrested on an illegal warrant by a Forest watcher and were marched to the Police Station The accused came at the scene and gave a slap to the watcher Held no offence under S 343 was committed 51 M 873=1928 M 624=109 I C 365=29 Cr L J 541

10 Warrant to attach *subord dar s* property is illegal and the resistance to it is no offence 1924 L 667=75 I C 731=25 Cr L J 43

11 Absence of name of person to be arrested vitiates warrant and the arresting person is not a public servant 51 C 902=1924 C 959=83 I C 481=26 Cr L J 2

12 Where the common object of the unlawful assembly was to stop the house search by excise officer and proceeded to attack him Held that the members were guilty under Ss 353 147 6 P 828=1928 P 115=106 I C 591=29 Cr L J 79 41 C 836

13 If the warrant of attachment is not produced nor its contents satisfactorily proved, the conviction under S 353 is bad 26 C 630, 3 C W N 605 *See* 29 A 272

14 If the warrant is initialled and not signed it is not illegal and assault is not justified 8 A 293, 23 C 896 27 A 491

15 When a Court peon in executing a warrant of arrest was resisted an offence under S 353 was committed 58 C 940=1931 C 443=35 C W N 298=32 Cr L J 886

16 If the date on or before which warrant of attachment is to be executed and the date of its return to Court is not given the warrant is illegal and resistance is no offence 1934 A 1016 35 C 1076 37 C 122 and 1933 A 46=55 A 119 relied on

17 Accused accompanied the bailiff to execute a warrant Judgment debtor was absent He wife was trying to shut the door Accused pushed the door violently and she fell down unconscious Held he was guilty under S 352 and S 79 cannot avail him 1934 Sind 52

7 Procedure

1 No sanction is required to initiate prosecution under S 353 whether the prosecutor be a private person or a public servant 31 C 664

2 It is improper to substitute a relative on the death of complainant 19 C W N 334

3 When the warrant is not produced at the trial nor secondary evidence of its contents is adduced, conviction is illegal 26 C 630 3 C W N 603 *Cont* 29 A 272

8 Sentence

1 Assaults on public servants cannot be lightly treated 1927 L 162=99 I C 955=28 Cr L J 199, 1934 N 23 (1) 35 Cr L J 447

2 Even if the resistance to process server is in the most open way a deterrent sentence should not be given 111 I C 576=1928 N 135=29 Cr L J 695

3 Assault on public officer of a mild character unless there be some element of criminality in it should not be punished with a sentence of imprisonment 1931 P 342=134 I C 432=12 P L T 791=32 Cr L J 1166

4 When no force or violence was used, a sentence of fine is sufficient 1935 P 214=36 Cr L J 714

9 Warrant of attachment

When an officer is entrusted with a warrant to attach the property of certain persons, he must attach it unless objection is raised 1935 P 214=36 Cr L J 714

ASSAULT ON WOMAN. S. 354 Penal Code.

1. Attempt to rape and S. 354—Distinction. *See* Rape.

1. A lady was travelling alone in a train and on waking found a man sitting on her berth. She screamed and the accused caught hold of her by hair and threatened her with revolver. He began to unbutton his trousers, and when she attempted to reach the communication cord, he apologised. Held, these were acts of preparation and the accused was guilty under S. 354. 96 I. C. 260=1925 R. 247=27 Cr. L. J. 916 4 Bur. L. J. 83.
2. Accused took off the clothes of a woman, whom he threw on the ground and sat down beside her. Held, he was guilty under S. 354. 16 P. W. R. 1912, 116 P. L. R. 1912.
3. But if the accused laid on the woman after making her naked it is attempt to rape 42 P. W. R. 1910.
4. Pulling of a woman by the arm with a request for sexual intercourse is an offence under S. 354. (1890) 1 Weir 347.
5. Accused seeing a woman alone in a field stuffed her mouth with sand and attempted to have intercourse, when her screams brought passersby. Held, he was guilty under Ss 376 511. A. L. R. 1934 L. 19.
6. *If the accused wanted to gratify her passions inspite of* resistance, he is guilty under Ss. 376 511. 5 B. 403.

2. Essentials and evidence.

1. Catching a woman by neck while she is sleeping a punishable under S. 354. 1927 C 505=103 I. C. 553=28 Cr. L. J. 697=31 C. W. N. 583.
2. Where a woman has no modesty to mention, the act of a person in taking her to a room and having intercourse with her, cannot be said to outrage her modesty. 1923 P. 326=108 I. C. 81=29 Cr. L. J. 325.
3. Accused took a girl of six years into his room and lay on her. She screamed and reported the matter to her mother. Held, he was guilty under S. 354, as her screaming and running away proved that she resented her modesty being outraged. 14 Bom. L. R. 961=17 I. C. 794.
4. Where accused pulled a girl by hand and hair in the presence of onlookers, he is guilty under S. 354, 13 I. C. 389. (1890) 1 Weir 347.
5. Accused caught hold of a woman by arm and dragged her. She was rescued by neighbours. Held, no offence under S. 366 is committed. *109 I. C. 127 (2)=10* L. L. J. 325.
6. Accusations connected with indecency and sexual immorality are one which are very easy to make in this country and difficult to rebut. It must be fully corroborated by conduct and surrounding circumstances. (1894) 1 U. B. R. 229.
7. Low class women generally aggravate a simple assault into an indecent one to avenge their husbands The Court should not rely upon their evidence unless corroborated. 5 B. 403. Lyon's Med. Jur. (1935) P. 375.
8. Every assault on woman does not necessarily fall under S. 354. 1927 C. 505=103 I. C. 553=31 C. W. N. 583=28 Cr. L. J. 697.
9. A woman was caught hold of by accused who dragged her a short distance. Held that in the absence of evidence of intention the accused is *not guilty* under S. 366 but under S. 354 only, 109 I. C. 127=29 P. L. R. 444.
10. When the evidence of rape depends on *uncorroborated testimony of prosecutrix*, it is safe to convict only under S. 354. 1 U. B. R. 229 (1892—1896), 1 U. B. R. 325 (1897—1901).
11. A Court peon in execution of an order under O. 21 r. 35, C. P. C, for delivery of possession forcibly removed a woman *on whom decree* was binding. *Held, he was* not guilty under S. 323 or S. 354. 1936 Oudh 379.
12. To place a hand on the shoulder of a woman will be an outrage on the modesty of a Hindu or a Muhammadan, but not a European. Cr. Revision No. 58 of 1906 (Bom.)

Assault on Woman—(*contd.*)

3. Intention.

1. Every assault on a woman does not necessarily fall under S. 354. 1927 C. 505=103 I. C. 553=28 Cr. L. J 697=31 C. W. N. 583.
2. Accused opened a closed *palki* believing that it contained a runaway debtor against whom he had warrants, but found a *parda-nashin* lady in it Held, accused is not guilty as the intention was innocent. 24 C. 886.
3. The act must be with the intention or knowledge that it was likely to outrage the woman's modesty. 19 I. C. 149=14 Cr L. J. 149
4. If the woman has no modesty there can be no outraging of it. 1928 P. 326=29 Cr. L J. 325.

4. On girl of 5 years.

1. Offence under S. 354 can be committed on girl of 5½ years though she has not developed sense of modesty. 1933 C. 142=34 Cr. L J 308.
2. Accused put his finger in the private part of a girl of 5½ years and caused a mark. She did not complain of it Held, that accused was guilty under S 354 (under S. 323 per Jack J) 1933 C. 366=35 Cr L J. 308, 13 Cr. L J. 858=17 I. C. 794=14 Bom L R. 961

5 Sentence

Accused felled a woman down in a public place, lifted her shirt and pulled her breasts Held, that binding him over under S 562 was inadequate and sentence was enhanced to 3 months' imprisonment 1934 L. 36 (2)

ASSEMBLING FOR COMMITTING DACOITY. S. 402, I. P. C.

1. Accused were found at a lonely well at a long distance from their respective homes fully armed for committing dacoity. Their conviction under S. 402 is competent. 94 I. C 269=27 Cr L. J. 605, 23 A. 124, 6 P. R. 1916, 1925 A. 62=26 Cr. L. J. 380
2. Accused, three of whom were residents of another village, assembled on the night of dacoity outside a village and were armed with revolvers and spears. Held, they were guilty under S. 402 1928 L. 114=106 I. C 350=29 Cr. L. J. 14, 37 P. W. R. 1916 Cr.=17 Cr. L. J. 280, 42 I. C. 1003.
3. Accused coming from different villages were arrested on suspicion by the villagers. They gave very improbable reasons for being there and a lot of ammunition was found in their possession. They are guilty under S. 402. 1925 A. 62=84 I. C. 860 =26 Cr. L. J. 380.
4. A mere assembly without further preparation is not a preparation within the meaning of S. 399, but falls under this section. 41 C. 350.
5. It is only the conduct and circumstances from which the Court may justifiably infer the existence of an intent to commit dacoity. 23 A. 124.
6. Accused were found in a hut in a jungle and one of whom was identified as a dacoit in a dacoity committed the previous night. They confessed that they live on dacoity. They are guilty under S. 402. 7 W. R. 61.

ASSEMBLY. *See* Unlawful Assembly, Religion.

ASSESSOR.—Ss. 309, 284 285, Cr. P. C.

1. Absence of.—S. 285, Cr. P. C.

1. If the Assessor is absent for some time, he should not be allowed to resume his seat afterwards. It vitiates trial. 24 M. 523.
2. Court can proceed if the Assessor absents himself during the trial, in his absence. It is a curable irregularity. 24 M. 523, 8 C. P. Cr. 9.
3. Portion of trial held in the absence of Assessors is invalid. 15 A. 136, 13 A. 337, 6 C. W. N. 715.

2. Appointment of.

1. Appellate court in a criminal case is not competent to appoint Assessors. 17 P. R. 1868.

Assessor—(*contd.*)

2. If an Assessor in the course of trial is found to be interested, the Sessions Judge can only refer the case to High Court to set aside such appointment. 13 Cr. L. J. 473.

3. Choice of. S. 284, Cr. P. C.

1. The Assessors must be chosen from persons summoned only. 35 A. 570.
2. Appointment of Nazir in the absence of summoned persons is illegal. 11 Cr. L. J. 724.
3. But where a person was summoned for a particular case and could not attend, his selection on a subsequent day in another trial was not improper. 17 Cr. L. J. 17.
4. Objection that the Assessor is a master or landlord of accused and interested is a valid one and should prevail. 1923 P. 116=60 I. C. 662.
5. If assessors are not chosen according to law, trial is illegal. 1933 Oudh 351, 35 A. 570, and 11 Cr. L. J. 724 Foll. 33 B. 423 Ref.

4. Number of. S. 284, Cr. P. C.

1. Under S. 284 there must be at least 3 Assessors. A trial with two is null and void. 77 I. C. 811=1924 N. 287, 1925 Oudh 110 (2)=84 I. C. 711, 1924 Oudh 417 (1).
2. Trial with one Assessor and one more deaf and blind is invalid. 21 A. 106, 35 A. 570.
3. Trial with 3 instead of 4 Assessors and no reasons given for not having 4, the trial is not illegal. 1925 P. 381=86 I. C. 153=25 Cr. L. J. 713.
4. Trial with less number of Assessors is illegal. 25 Cr. L. J. 459=1924 N. 287.

5. Opinion of S. 309, Cr. P. C.

1. Assessors should be invited and encouraged to state grounds of their opinion. 2 B. L. R. 323.
2. When a Judge differs from Asssessors the grounds of each Assessor's opinion should be distinctly noted. 48 P. R. 1905 Cr.=192 P. L. R. 1905=3 Cr. L. J. 132.
3. A trial is bad if Assessors are not asked and apparently not allowed to give their opinion. 40 C. 163, 24 M. 523 (536), 10 A. 414, 9 C. 875, 26 M. 598.
4. Record of opinion of Assessors in one joint statement instead of separately is curable irregularity. 41 P. R. 1887 Cr., 9 C. 875.
5. When opinion of all the Assessors is not taken, the trial is illegal and not merely irregular. 26 M. 598, 1934 P. 561.
6. Assessors are to give their opinion orally and not in writing. 36 C. 119.
7. A Judge cannot dispense with the opinion of Assessors, merely because he considers the evidence unsatisfactory. 10 A. 414
8. Judge is not bound to conform to the opinion of Assessors, although regard should be paid to it. 24 M. 523, 16 I. C. 326
9. A Judge cannot convict under S. 201, I. P. C., when opinion of Assessors was taken with respect of S. 307, I. P. C. only. 1924 B 246=26 Cr. L. J. 394.
10. When case is partly triable with Assessors and partly with Jury, the Judge should decide the one with the aid of Assessors and send the other to High Court if he disagrees with Jury. 50 I. C. 832=20 Cr. L. J. 352=26 M. L. T. 45.
11. There is nothing in the Code to allow or forbid Assessors to consult among themselves 30 I. C. 1005.
12. Actual words of Assessors must be recorded. 1921 P. 109=22 Cr. L. J. 417.
13. Judge cannot visit the spot after the opinion of Assessors is taken. 43 I. C. 86.
14. When opinion of Assessors is taken, a fresh trial cannot be held if Judge finds the first trial illegal. 31 I. C. 1000=16 Cr. L. J. 824=17 B. L. R. 1074.
15. If Assessors had been asked their opinion in a case under Ss. 395, 403, I. P. C. and gave verdict for theft only. It cannot be said that Judge did not take their opinion. 1929 Sind 147=118 I. C. 193 (2)=30 Cr. L. J. 875.
16. Distinct opinion on each charge must be taken. 1928 N. 257=109 I. C. 497.
17. Each Assessor should be asked separately to give his opinion clearly. Giving the opinion as "the same" after the first Assesor has given his opinion is not enough.

Assessors—(*contd.*)

1929 L. 37=115 I. C. 66=30 Cr. L. J. 378.

18. In case of identification of ornaments of small value, the opinion of the Assessors is of great weight, as they are well acquainted with the ways of ordinary men. 1925 O. 452=89 I. C. 155=26 Cr. L. J. 1291.

19. Accused is entitled to have Assessor's opinion on all charges. Failure by Judge to do so vitiates trial. 1934 O. 354=35 Cr. L. J. 1066, 26 M. 598, 1928 N. 257, 1924 B. 246 and 1927 P. C. 44 Dist.

20. Each of the Assessors must state his opinion orally on all charges. Judge can record their opinion and can put necessary question 1935 Sind 23=36 Cr L. J. 504.

21. Omission to make reference to the opinion of Assessors in the judgment is a curable irregularity. 1933 L. 910=35 Cr. L. J. 168, 48 P. R 1905 Dist.

22. If Assessors give an opinion of not guilty in a murder case, it is no reason for awarding lesser sentence 1933 N. 307, 1 R. 751

6. Questions to.

1. Judge can put questions to Assessors to elucidate their opinion. 40 C. 163, 41 C. 350.

2. Questions by way of cross examination cannot be put to the Assessors 41 C. 350.

7. Verdict of.

1. Further evidence cannot be taken after verdict of the Assessors. 14 P. R. 1870 Cr., 43 A. 25=59 I. C. 559

2. Accused cannot be convicted of offence for which verdict of Assessors is not taken. 25 B L. R. 1318=1924 B 246=84 I. C. 938=26 Cr. L. J 394.

3. Simultaneous hearing of two cases by one set of Assessors renders the trial invalid. 64 I. C 833.

ASSIGNMENT OF BOND.

Unstamped endorsement of assignment of bond is not an offence under S 51. Stamp Act. 20 P. R. 1867.

ASSISTANT SESSIONS JUDGE *See* Additional Sessions Judge.

ASSISTING COURT. *See* Duty of Prosecution —1.

ASSISTING IN CONCEALMENT OF STOLEN PROPERTY. S 414, I. P. C.

1. Applicability of section.

1. *S. 414 is apparently intended to apply to cases where there has not been such a* possession as would support the charge under S. 411. 31 P. R. 1879 Cr., 8 Cr. L J 11.

2. A person convicted under S. 411 with respect to a property taken on a particular occasion cannot subsequently be tried under S. 414 in respect of other property stolen on the same occasion from the same person. 28 A. 313=3 Cr. L. J. 207.

2. Charge

1. A charge under S. 414 would in many cases be advisable as an alternative charge. 10 Bom. L. R. 125.

2. A charge under S. 414 should contain details as to the nature of property as well as circumstances under which it was concealed or made away with. 2 B. H. C. R. 130.

3. Disposing of.

1. Where the accused restored to the owner, property stolen by his son, with a view to save his son, and subsequently denied all knowledge of it, he was not liable under S. 414. 'Disposing' in S. 414 has to be construed *ejusdem generis* with concealing and making away with. 11 Cr. L. J. 493=7 I. C. 465.

2. The intention of the section is to punish persons who subsequent to the commission of the offence either conceal it or make away with it by destroying or otherwise disposing of it. It does not apply to the case of a man spending money stolen by another. 1935 L. 587=1935 Cr. C. 968.

Assisting in Concealment of stolen property—(contd.)

4. Essentials and Evidence.

1. Where a man conceals stolen property in another's house with a view to get the latter into trouble he is liable under S. 414 and for fabricating false evidence under S. 193 I. P. C. 1 A. 379.

2. It is not necessary that owner should be traced. It should be proved that accused voluntarily assisted in concealing the property which had reason to believe to be stolen This latter fact may be proved from the accused's own conduct, as where a poor Pathan cooly had jewels 14 Bom. L. R. 893=13 Cr. L. J. 793.

3. The owner need not be traced. Proof that property is stolen is enough and that the accused helped in the disposal of it. 49 B. 878=1926 B. 71 (1)=27 Cr. L. J. 114=91 I. C. 690.

4. A finding that the property is stolen may be based on strong circumstantial evidence 1924 M. 350=25 Cr. L. J. 790=81 I. C. 310

5. An accused who conceals property in the belief that it is stolen while really it is not, is not guilty. 1924 M. 350=25 Cr. L. J. 790.

6 The word "believe" in S. 414 is very much stronger than "suspect". It is not sufficient to show that accused was careless or that he had reason to suspect that the property was stolen or that he did not make sufficient inquiry about it. 6 B. 402.

7. This section applies where there is no actual receipt of stolen property. 4 M. H. C App. 13=1 Weir 469.

8. Neither S. 411 nor S. 414 applies to actual thief. 8 Cr. L. J. 11, 15 P. R. 1896 Cr.

9. Assistance given by aiding the concealment or destruction or by promoting the sale of the stolen property, by one who has reason to believe it to be stolen property constitutes this offence 29 B 449, 14 Bom. L. R. 893, 39 P. R. 1881.

10. A European soldier gave stolen jewellery, usually worn by Indian female to accused. Held, accused could not be said to believe or to have reason to believe that jewellery was stolen. 1932 L. 434=139 I. C. 442

5 Melting stolen ornaments.

1. S 414 is clearly intended to penalize persons, who deal with the property in such a way that it becomes impossible to identify it or use it as evidence Thus melting down ornaments would come under the scope of this section *1935 L. 587 (588)* =1935 Cr. C. 968.

2. Disposing of ignots of gold (stolen property) by one would not fall under S 414, as the act committed is disposing of the property and not assisting in disposing of it 39 P. R. 1881.

6 Sale of—.

Assistance given by promoting sale of stolen property, by one who has reason to believe it to be stolen property constitutes an offence under S. 414. 29 B. 449.

ASSOCITES *See* Witness—7.

ASSOCIATION WITH ACCUSED. *See* Accused—2.

A TROPINE. *See* Poison—3.

ATMOSPHERE.

1. Engendering suspicion. *See* Transfer (Grounds)—8.

2 Fouling of. *See* Public Nuisance—18.

ATMOSPHERE OF COURT.

The atmosphere of court of law should be as scientific as that of a hospital or lecture room. 1931 M. W. N. 1152.

ATTACHMENT. *See* Absconding, S. 146, Cr. P. C.

ATTACHMENT OF PROPERTY BEFORE JUDGMENT.

1. Attachment of property before judgment is not desirable, as accused is not presumed to be guilty. 58 B. 152=1934 B. 74.

Attachment of property befors judgement.—(*contd.*)

2. Accused deposited stolen property in the Bank. Money becomes property of the Bank and no order under S. 94, Cr. P. C., can be passed, nor can money in Bank be attached. 58 B. 152.

ATTACK ON RELIGION OR ITS FOUNDER. *See* Religion—1.

ATTEMPT. Ss. 511, 417, 376, 312, 307, 161, 124 A. 122, I. P. C.

1. Definition.

1. Attempt is some external tangible act, showing progress towards the actual commission of offence. 1927 L. 634=103 I C. 408, 14 P. R. 1914, 24 P. R. 1914, 8 A. 304, 13 P. R. 1879, 25 P. R. 1902, 15 P. R. 1907, 13 P. R. 1881.
2. Definition by Cockburn C. J. "If the attempt had succeeded the offence charged would have been committed." 14 P.R. 1914, 30 Cr. L.J. 289 (Sp Bench) 8 B. L. R. 421, 10 B. L. R. 848, 2 Bom. L. R. 286.
3. An attempt is the commencement of series of acts. 1922 N. 40=65 I. C 494.
4. Transaction which is commenced but interrupted is attempt. 37 B. 553.

2. Distinction from preparation. *See* Preparation

1. Preparation consists in devising or arranging means necessary for commission, while an attempt is the direct movement towards commission after preparation is made. 1923 P. 307=65 I. C. 492=23 Cr. L J. 108.
2. Mere obtaining thumb impression on a blank paper is only a preparation and not an attempt. 1926 P. 267=94 I. C. 353=27 Cr L J. 609
3. Debtor sending waste papers under an insured cover, as if it contained currency notes is only preparation and no offence is committed 1927 M 199=99 I. C. 102, 1924 A. 205. *Cont.* 10 P. R. 1913 Cr.
4. Mere obtaining signature slip at the Polling Station fraudulently is no offence under S. 171 (*f*) read with S. 511, I. P C. 1925 A. 226=84 I. C. 711.
5. Presence on roof of a house is not attempt at house breaking but only preparation. 15 P. R 1907 Cr.
6. Assault with a raised naked sword is preparation and not attempt to murder. 45 P. R. 1882 Cr.
7. Milk contractor going with stale milk in the direction of milch cows is not attempt to cheat but preparation 40 P. R. 1885 Cr.
8. Offering to sell supurious trinkets, by false representation is attempt to cheat. 14 P. R. 1914 Cr.=66 P. L. R. 1914=23 I. C. 473.
9. Possession of *Lahn* is not an attempt to manufacture fermented liquor. 29 P. R. 1884 Cr.
10. Railway goods clerk only entered gross weight instead of actual weight. It is only a preparation to cheat. 1923 P. 307=65 I. C 492=23 Cr. L. J 108.
11. A clerk entered in a register higher weight of sugarcane coming to a factory but register had not passed from his hand. Held, it was not an attempt 1923 P. 307 =65 I. C. 492=23 Cr. L. J. 108.
12. Assistance given in the preparation of offence amounts neither to abetment nor attempt, unless the offence is committed. 1925 Oudh 158=25 Cr. L. J. 1162.
13. There are four stages in every crime the intention to commit, the preparation to commit, the attempt to commit, and if the third stage is successful, the commission itself. 1933 C. 893=35 Cr. L. J. 97.
14. Intention to commit crime or intention followed by preparation is not sufficient to constitute attempt. 1933 C. 893=35 Cr. L. J. 97.
15. Whether any given act or series of acts amounts to attempt is a question of fact in each case. 15 A. 173.
16. Preparation for the committing of an offence is punishable in the case of dacoity. 18 P. R. 1868.

Attempt—(*concld.*)

3. Previous conviction.

S. 75, P. C. (enhanced punishment) does not apply to previous conviction for attempt. 27 P. R. 1872, 14 P. R. 1906.

4. Scope —Intention.—

1. An attempt is possible though offence attempted cannot be committed. 1922 Nag 40=65 I. C. 494.
2. If there is some external tangible act, showing progress towards the actual commission of an offence, mere interruption is immaterial. 1927 L. 634=103 I. C. 408=28 Cr. L. J. 680.
3. *Attempt itself is an offence. 17 A. 120.*
4. When seditious matter is sent by post and is interrupted on the way, it is attempt to commit sedition. 39 C. 522. *See* 39 C. 606, 34 B. 378.
5. An attempt is punishable though the final act short of actual commission of that offence has not been accomplished. 10 L. 253=1928 L. 551=29 Cr. L. J. 780.
6. S. 511 does not apply to attempt to murder. 14 A. 33.
7. Intention alone, or intention followed by preparation is not sufficient to constitute attempt. But intention followed by preparation followed by any "act done towards the commission of the offence" is sufficient. 1933 C. 893=35 Cr. L J. 97. 34 B. 378, 2 Bom. L. R. 304; 2 Bom. L. R. 286 Ref. 24 B. 287, 5 I. C. 138, 15 B. 194, 4 N. L. J. 245.
8. It is not legally impossible to attempt the abetment of an offence. 49 P. R. 1887.
9. A widow administered *dhatura* to her parents. Held, she must be presumed to be aware of the fact that it was likely to cause death, although she may not have administered it with that intention. 20 A. 143
10. Conviction for attempt cannot be justified on mere surmise or probability. 17 Cr. L J. 431=35 I. C. 991.
11. S 511 applies to offences under Penal Code. 1 Weir 624—640.

5. Sentence

1. The sentence of attempts to commit offence is half of that awardable for the offence up to Magistrate's power. 13 P. R. 1871, 10 P. R. 1913 Cr.
2. A sentence of whipping may be awarded for an attempt if the offence is so punishable 1 Bur. 399—531.
3. The sentence for attempt is half of that can be awarded for the offence and not half of what the Magistrate can award 13 P. R. 1893.

6 To commit cheating, robbery, etc , etc. *See* those offences. (Cheating, Robbery, etc)

7. To commit suicide S. 309, I. P. C. *See* Suicide—2.

8 To export opium.

1. Attempt to export opium is no offence 2 P. R. 1911 Cr,
2. Accused was found travelling in a bus to Tranquebar carrying 165 tolas of opium which N had given him with instruction to *give him in French territory*. Held, it was only preparation. 1932 M. 507=1932 M. W. N. 545=138 I. C. 286=33 Cr. L. J. 582=36 M. L. W. 127.

9. To manufacture liquor.

1. Possession of '*Lahn*' in a vessel is not an attempt. 17 P. R. 1889.

10. To murder. *See* Attempt to Murder.

ATTEMPT TO COMMIT CULPABLE HOMICIDE. S. 308, I. P. C.

If in case of shooting a person intentionally, the bullet passed through that person's bullock and private part and causing grievous injury, the offence falls under S. 308. A. L. R. 1932 L. 499.

ATTEMPT TO MURDER. S. 307, I. P. C.

Attempt to Murder—(contd.)

1. Abetment of.

1. It is somewhat difficult to conceive circumstances which would constitute an instigation to attempt to murder. 9 B. L. R. 190.

2. A wife administered to her husband poison to improve his quarrelsome nature, which was supplied by her lover, who knew it to be *Dhatura*. The latter is guilty of abetment under S. 302, I. P. C. 19 Bom. L. R. 54=38 I. C. 1003.

2. By blows (lathi, sword, etc.)

1. Accused struck his wife with hatchet on the neck. Conviction should be under S. 324 and not under S. 307, I. P. C., as a hatchet blow would not ordinarily cause death. 15 Bom. L. R. 991=14 Cr. L. J. 641=21 I. C. 881.

2. Several blows were aimed at the head, causing 10 incised wounds Murderous intent is proved. 132 P. L. R. 1915=13 P. W. R 1915 Cr.

3. Fetching a sword and advancing towards complainant, in a menacing attitude, is not an attempt to murder. 45 P. R. 1882 Cr.

4. Pursuing complainant with a raised axe in hand is an attempt at grievous hurt. 30 P. R 1904 Cr.

5. Cutting off complainant's hands and maiming him for life is attempt to murder. 1923 L. 236 (2).

6. Accused struck the deceased three blows on the head and believing him to be dead, set fire to the hut. According to medical evidence he died of burning and not of blows The accused was convicted under S. 307 only 15 B. 194.

7. Accused came armed with *dangs* and gave beating to their enemy to unconsciousness. They announced their intention of killing him. Held, the charge under S. 307 is not illegal 1929 L. 67=112 I. C 224=29 Cr. L. J. 1008.

8. Wounding of a person with knife on the neck falls under S. 307. 6 P. R. 1912.

9. Whether a blow with hatchet is or is not capable of causing such result depends upon the particular nature of the blow inflicted. 21 I. C. 881=14 Cr. L. J. 641.

10. Accused was drunk and on provocation gave slight injuries with sharp edged weapon. Held, he was guilty under S. 324 and not S. 307 1936 L. 914.

3. By Dhatura. See—5.

4. By gun-shot or revolver. See Wound—12.

1. A shot of cartridge about No. 6 in size fired at a distance of 6 paces is very likely to cause death, the accused is guilty under S. 307. 10 Cr. L. J. 57=9 C. L. J. 432.

2. If a person fires two successive shots towards the same man, an intention to murder is proved 1 P. W. R. 1910 Cr, 5 I. C. 602=11 Cr. L. J 125.

3. Using revolver at night to keep watch is not offence, when it was not aimed at any one. 9 L. L. J. 331=1927 L. 853.

4. A Police sowar fired three successive shots while pursuing a person. One of the shots struck a person bathing in the river, no offence under S 307, I. P C., is established. 1923 L. 415=76 I. C. 1028=25 Cr. L. J. 308.

5. Accused pulled the trigger twice with no result. In the absence of proof that gun was loaded, there is no offence under S. 307 but under S 352. 1223 R. 251=I. R. 209.

6. Intentionally discharging loaded gun from a short distance, causing injuries, which might prove fatal is an offence under S. 307. 29 I. C. 670=16 Cr. L. J. 542.

7. If the gun failed to discharge due to the omission of the assailant to cap the nipple, the conviction for attempt to murder does not lie. 4 B. H C. R. 17.

8. A shot was fired from the house in which accused was residing but it was not aimed at any body. It was not proved that accused fired the shot, he is not guilty. 1927 L. 853=9 L. L. J. 331.

9. If the intention of the accused in firing a shot at a Police officer was not to kill him, but to scare him away, he is guilty under S. 506 and not under S. 307, I. P. C. 1931 M. W. N. 861.

Attempt to Murder—(contd.)

10. The accused fired two shots from a powerful revolver at point blank range at His Excellency the Governor of Bombay. He missed his aim and no injury was caused. Held, he was guilty under S. 307. 1932 B. 279=34 Bom. L. R. 571, 14 A. 38 approved. 4 B. H. C. R. 17 (Cr. C.) doubted.

11. Accused, a soldier, fired at his grandmother during a quarrel and the bullet hit fleshy part causing simple injuries. Held, he was guilty under S. 324 and not under S. 307. 1933 L. 315=145 I. C. 702.

12. Accused fired his pistol at a constable who was chasing him. The bullet struck him on his side. Held, he was guilty under S. 307 I. P. C. and S. 19 (*f*), Arms Act 1933 L. 852.

13 Accused shooting at A but wounding B by mistake is guilty under S. 307, ha regard to the provisions of S. 301. 1935 Pesh. 74.

5. By poison.

1. Asking a doctor to supply medicine for poisoning a person is not an attem murder. 24 P. R. 1882 Cr.

2. When the quantity of poison is not known, it cannot be said that accused intende cause more than hurt. 3 I. C. 721.

3. Accused administered *Dhatura* to several persons, who died. He administered C. who did not die. The offence falls under S. 307. 72 P. L. R. 1911=12 L. J. 125.

4. A young widow administered *Dhatura* to the members of her family in order to e away with her paramour. The victims were all saved, as they were soon rem to the dispensary. She is guilty under S. 307. 20 A. 143, 60 I. C. 50. *See* 15 B.

5. A wife intending to poison her husband, mixed some arsenic in his food but it insufficient to kill him He died of inflammation of brain and there was no evid that poison was even the secondary cause of it, she is not guilty under S. 1 Weir 187.

6. Accused intended to poison A, but A shared the poisoned sweet with B, who suffered from poison. He was guilty of attempting to murder B also. 192 108=63 I. C. 50=22 Cr. L. J. 194=3 L. L. J. 191.

7. A young man administered poison under instigation and none of the victims succ ed, the conviction was altered from S 307 to S 328 1931 P. 346=32 Cr. L.J. 1

6. By suffocation. *See* Suffocation.

1. Accused enticed into her house a boy of nine years of age and removed his je As she was unable to remove anklets and ear rings, she put him in a jar and cov it with a mill-stone after tying his wrist and neck and stuffing his mouth. The next morning removed the stone and ran home. Held, she was guilty under S. (1889) 1 Weir 328.

2. A young Brahmin widow was confined of a child. A new-born child was discov wrapped up in a cloth with a cooking vessel turned over it, in the upper st Held, she was not guilty. 8 Bom. H. C. (Cr. C.) 164.

7. Essentials and Evidence.

1. The act must be done in such a way and with such ingredients, that if it succe and death was caused by it, the legal result would be murder according to S. 2 300. 14 A. 38.

2. In case of mutual injuries on each other and no eye witnesses, the conviction sh be under S. 326 and not under S. 307, I. P. C. 2 R. 558=1925 R. 133.

3. Throwing a child in a pond and wishing that its death should fall as a curse on other woman is attempt of murder. 11 Cr. L. J. 48=5 I. C. 138.

4. S 307 makes a distinction between an act of accused and its result if any. The has to see the act irrespective of result. 1930 L. 253=31 Cr. L. J. 782=125 183, 15 Bom. L. R. 991 Dist.

5. Law does not say that when a person is stabbed, his evidence must be corrobor It must be above suspicion. 1929 M. W. N. 587.

tempt to Murder—(contd)

6 Abrasion on the person of the accused is not sufficient proof that he attempted to murder 1929 N 350=120 I C 210=31 Cr L J 15

7 In order to constitute offence under S 307, the act committed must be capable of causing death in the natural and ordinary course of events 15 Bom L R 991, 4 B H C R 17.

8 When a prosecution witness who was not interested in accused Nos 1 and 2 came up after the occurrence and was told by eye witnesses that accused No 3 killed the deceased *and they did not name Nos 1 and 2 soon Held that accused Nos 1 and 2* cannot be convicted 1923 L 236 (2)

9 Intention of the accused should be gathered from his act and surrounding circumstances 1930 L 491=11 L 460=31 Cr L J 1071=126 I C 573

10 Where in a party fight, the evidence on both sides was perjured the court should go by the marks of injuries on the accused person 1931 A 712=32 Cr L J 1073

11 When the accused does an act which must in the ordinary course of events causes death, an offence under S 307 is committed 1931 L 63 21 I C 881

12 If the accused does an act with such guilty intention that but for some intervening fact beyond the control of the deceased the act would have amounted to murder it falls under S 307 1932 B 279=34 Bom L R 571, 14 A 38 4 B H C R 17 Ref

13 Under S 307 the act must be capable of causing death in the natural and ordinary course of things 1935 N 177=36 Cr L J 854=155 I C 1014 4 B H C (Cr) 17, 30 P R 1904, 15 Bom L R 991 Rel on

14 Accused caused incised wound with axe to his mother in law but there was no evidence of intention to kill the conviction should be under S 326 and not S 307 1935 N 177=36 Cr L J 854

15 Accused struck his wife on the neck with a hatchet It was held that it was not act ordinarily capable of causing death in the ordinary and natural course of events He was convicted under S 324 15 Bom L R 991 (993)=14 Cr L J 641

16 The fact that accused produced no defence is to be considered in weighing prosecution evidence 1934 O 401=35 Cr L J 1244

17 Causing grievous injury at midnight to a man asleep is offence under S 307 1934 L 353, (2) A L R

Intention

1 When the accused in firing a shot at a Police officer had no intention to kill him but only to scare him away the offence does not fall under S 307 but under S 506 (Criminal intimidation) 1931 M W N 861

2 Intention of accused should be gathered from his acts and surrounding circumstances 1930 L 491=11 L 460=126 I C 573=31 Cr L J 1071

3 Accused took away a boy to perform magic on him and attacked him with a dagger in a very savage manner But subsequently he attended to his wounds and bandaged them Held accused was guilty under S 325 only 1935 A 614=1935 Cr C 636

Procedure

1 Court cannot convict the accused under S 307 read with S 34 or S 114 although charged with Ss 307 148, 149, I P C 1924 B 502=26 Bom L R 954

2 S 511, I P C, does not apply to attempt to murder 14 A 33 (38)

3 Accused acquitted under S 397 trial under S 307 is barred 1934 M 311

4 If accused is acquitted under S 302 the appellate court can convict him under S 307, that is for attempt to murder without a charge bring framed 1936 O 44=37 Cr L J 12

5 Accused attacking a defenceless person and causing injuries is not guilty under S 307. 58 I C 158=21 Cr L J 734

0. Sentence

1 When a young woman on account of ill treatment at home became desperate and

Attempt to Murder—(concld.)

jumped into a well with her child, a sentence of six weeks and fine of Rs. 5 is proper. 1926 P. L. R. 581.

2. Accused caused incised wounds to her mother-in law with an axe. Held, 18 months, imprisonment was sufficient punishment and should not be enhanced, 1935 N. 177=36 Cr. L. 854, 9 C. P., L. R. 4.

3. Infidelity of deceased wife is mitigating circumstance. Sentence was reduced to 3 years. 1934 L. 675 (2).

ATTENDANCE OF WITNESSES. Ss. 90, 160—257, Cr. P. C. *See* Witness —8.

1. Before Court —

1. It is the duty of Magistrate to procure attendance of witnesses residing in foreign territory. 4 P. R. 1873, Cr.
2. Warrant for the attendance of witnesses in the first instance is illegal. 22 P. W. R. 1907.
3. When a Magistrate has once granted process for witnesses he is bound to enforce their attendance. 10 C. 931, 35 C. 1093, 30 C. 121, 28 P. R, 1884, 1922 P. L. R. 5, 4 A 53, 1926 P. 139=90 I. C. 923, 1926 C. 188=95 I. C. 761.
4. Forfeiture of whole amount of security for non-attendance of witness is a harsh measure. 22 P. W. R. 1907.
5. A warrant was issued against an abducted woman in a case under S. 498, on the application of the complainant that she would escape. Held, that omission to record reasons is mere irregularity. 59 I. C. 415=22 Cr. L. J. 111.
6. It is the business of the Court to see that its summons or warrants are duly executed If not executed, the accused is not responsible. 1921 A. 142=65 I. C. 556.
7. When warrant is issued against a witness, he should be admitted to bail. (1905) 2 Weir 39.

2. Before Police. S. 160, Cr. P. C

1. Order for attendance of witness must be in writing. (1895) 1 Weir 86.
2. If a constable verbally asks a person to accompany him, he does not act in the discharge of his duty, and an assault on constable is non-punishable under S. 353, I. P. C. 1918 N. 137.
3. Police officer has no power to arrest or detain any witness during investigation 7. W. R. 3, (1886) 2 Weir 121.
4. The examination of a woman should be conducted at her house and not in the Thana, 9 C. W. N. 199=2 Cr. L. J. 51.
5. S. 160 applies to witnesses only and not the accused. 7 M. 274, 4 Bom. L. R. 644, 2 Weir 121, 4 R. 72=96 I. C. 145=1926 R. 116, 114 I. C. 273.
6. A Magistrate has no power to issue warrant for attendance of a person in order that he may give evidence before Police. 24 C. 320
7. A Police officer cannot order a person to appear before Magistrate so that Magistrate may record his statement under S. 164. (1889) Rat. 468.
8. If the person disobeys an order to attend, the only course is to prosecute that person under S. 174. There is no provision of law empowering the Police to *compel* that person to attend. 4 Bom. L. R. 79.
9. It will not be wrongful confinement if the person is merely taken to Police Station and asked to wait till Sub-Inspector saw him. 1930 O. 505.
10. A refusul to receive notice under S. 160, Cr. P. C. is not an offence under S. 173, I. P. C. 1926 A. 304, 1886 A. W. N. 93, 40 A. 577.

ATTESTATION—FALSE. *See* Forgery.—13.

ATTORNEY. *See* Advice.

ATTRIBUTED REMARKS. *See* Witness—9.

No weight is to be attached to a merely attributed remarks, the imputation generally being a mere device to supplement feeble evidence. 1929 L. 436=118 I. C. 544=30 Cr. L. J. 941=11 L. L. J. 58.

AUCTIONEER *See* Breach of Trust

AUTHORITY—

Authority is a legal power to do an act given by one man to another *Wharton's Law Lexicon, P 94*

AUTHORSHIP

Accused s name appearing on the title pages is not a sufficient proof of authorship 1925 L 569—26 Cr L J 1124=88 I C 356=26 P L R 403

AUTREFOIS ACQUIT.—S 403, Cr P C *See* Previous conviction or acquittal barring trial

1 S 403, Cr P C, amplifies the well known maxim *nemo debet bis vixre* It does not rest on doctrine of estoppel but embodies the rule that a man may not be put twice in peril for the same offence 29 M 126

2 When prosecution is withdrawn under S 494 Cr P C, it bars a second trial for the same offence 40 M 976

3 The doctrine does not apply to a refusal by magistrate to file complaint under S 476, Cr P C 1930 Sind 315=1930 Cr C 1147

AUTREFOIS CONVICT *See* Previous conviction barring trial

AUTOPSY *See* Post mortem

AVOIDING SERVICE *See* Absconding to avoid service S 172 I P C

B

BAD CHARACTER S 54 Evidence Act *See* S 110 Cr P C *See* good character

1. Admissibility of evidence of

1 Accused person's guilt is to be established by proof of facts and not his character Such evidence only creates a prejudice 42 C 957, 1924 R 91=25 Cr L J 618

2 Evidence of bad character is inadmissible except when it is itself a fact in issue 128 I C 739=1930 O 455 15 P R 1888 7 P R 1895 8 P R 1894 11 P R 1908 Cr 46 I C 696 1933 O 355=146 I C 1064

3 The fact that accused is a bad character or is reputed to be thief or habitual offender, is no evidence under S 401 Penal Code 13 P R 1914 Cr

4 Under S 401 the evidence of the commission of other offences than dacoity is inadmissible 32 M 179 46 B 958 1930 Sind 211—126 I C 468

5 Evidence of bad character is relevant except for the purpose of showing that the accused was of bad character and therefore likely to commit offences of the kind 2 L L J 653=59 I C 560

6 Evidence of bad character to prove motive for crime or otherwise is admissible 1926 P 232=93 I C 884 47 C 671 1923 B 71

7 In a case of defamation general bad character of the complainant may be proved 4 L 55—1923 L 225=73 I C 805=24 Cr L J 693

8 In a charge for murder evidence of conspiracy and murder on a previous occasion is not admissible 62 I C 545=22 Cr L J 529

9 Evidence of bad character is inadmissible unless evidence has been given that he has good character 1933 O 355 1928 O 430=29 Cr L J 1000 Foll 60 I C 331 =22 Cr L J 219 1930 A 746

10 Evidence that accused is under Police surveillance is evidence of bad character 1931 P 345=32 Cr L J 1025

11 Evidence which is otherwise relevant cannot become irrelevant merely because it incidently shows the accused to be of bad character 59 C 1361=1932 C 474

12 In a charge of sedition if the accused pleads loyalty evidence of previous seditious speeches become admissible 1921 S 199=26 Cr L J 304

13 In a riot case the evidence of a witness that he brought a case under S 107, Cr P C. is admissible 40 C 367

Bad Character—(*contd.*)

2. Admission in cross-examination of. *See* Cross examination—17.

3. Previous acts of cheating, defalcation, etc. *See* similar acts.

1. Evidence of previous act of dishonesty is admissible to prevent the accused to plead that the act was committed without dishonest intention. 1927 L. 549=102 I. C. 492=28 P. L. R. 313=28 Cr. L. J. 556
2. Evidence of defalcation prior or subsequent, whether such defalcation formed the basis of other charge or not is admissible to prove criminal intent, as also to anticipate the defence of non-existence of such intent. 97 I. C. 1041.
3. Evidence of bad character is admissible under S. 14, Evidence Act, to prove habit or association 1928 Oudh 430, 27 C. 139, 32 M. 179, 1925 C. 872.

4. Previous Conviction.

1. Evidence of previous conviction is that of bad character and is not admissible unless accused produced evidence of good character. 60 I. C. 331, 1935 S. 115.
2. A previous conviction is relevant on the question of punishment or for applying S 562, Cr. P. C 39 B. 325, 52 M. 358=1929 M. 306=30 Cr. L. J. 471.
3. In a trial of substantive offence, evidence of previous conviction should not be recorded unless evidence of good character is tendered. 60 I. C. 331.
4. Evidence of previous conviction is admissible to prove habit and association under S. 14, Ev. Act. 1933 O 355, 1928 O. 430=29 Cr. L. J. 1000.
5. Plea of autrofois acquit, can be pleaded, when accused has, on the same facts, been tried and convicted or acquitted. 7 N. W. P. H. C. R. 371.

5. Previous order under Ss. 107, or 110, Cr. P. C.

1. Prior order under S. 107, Cr. P. C. can be proved against one proceeded against under S 110. 51 A. 275=1929 A. 650=1929 Cr. C. 346.
2. Previous conviction or order under S. 110 are admissible in a case under S. 401, Penal Code for proving habit, though not general bad character. 1930 Sind 211.

6. Report as to movement of—.

It is the duty of village headman and watchman in Punjab to report the movement of a bad character. 11 P. R. 1893.

7. Security from. *See* Security for good behaviour.

8. Ticket of leave of.

Order prohibiting bad characters from leaving the village without ticket of leave is not legal. 45 P. R. 1867 Cr.

BAD LIVELIHOOD. *See* S. 110, Cr. P. C.

BAD MANNERS *See* Insult to provoke breach of peace.—2

BAD REPUTE *See* Security for good behaviour from habitual offender—11.

BAIL. Ss 496, 497, 498 Recognizance

1. After commitment

Persons committed to Court of Sessions can be admitted to bail. 1935 Pesh. 101.

2. Amount of.—*See* Bail.

1. The amount of every bond under this chapter, (*i e*, Ch. 39), shall be fixed with due regard to the circumstances of the case, and shall not be excessive - S 498, Cr. P. C. 14 A. 45.
2. The intention of the law is that the accused person should be let off ordinarily on such moderate security as is suitable for his appearance in court pending inquiry. Bail of Rs. 10,000 was held to be unfair. 1918 B. 254=19 Cr. L. J. 329.
3. The bail is not to be withheld merely as punishment. The requirements as to bail are to secure the attendance of the accused at the trial. 1924 C. 476=51 C. 402=81 I. C. 220=25 Cr. L. J. 732, 1927 P. 302=102 I. C. 909=6 P. 802=28 Cr. L. J. 621.

Bail—(*contd.*)

4. Sufficiency of bail should be demanded by the court itself and not left to the Police in cases where the court enlarges on bail. 15 C. 455.

3. Application for.

1. Application for bail or affidavit should state clearly the grounds on which bail is asked for. 1934 A. 815.

2. Application for bail signed by Advocate only on behalf of prisoner is exempt from court fee 23 Cr. L. J. 121.

3. Application for bail should not contain defamatory matters or attack on trying Magistrate or Government servants which are irrelevant or improper in themselves. 15 B. 488.

4. By Additional Sessions Judge.

If the power of granting or cancelling bail is not conferred on an Additional Sessions Judge by the Local Government or the Sessions Judge of the Division, his order of granting or cancelling bail is *ultra vires* 1930 R 335=32 Cr. L. J 148.

5. By District Magistrate

1. Although District Magistrate cannot release on bail pending appeal, he may suspend the sentence pending appeal. 3 W. R 57

2. District Magistrate cannot cancel a bail of the accused released by Subordinate Magistrate 4 Bur L. T 70

3 District Magistrate cannot revise Subordinate Magistrate's order granting bail. 22 B 549

6. By High Court. *See* Inherent Powers—2

1. Where accused obtained special leave to appeal to the Privy Council, High Court has jurisdiction to grant bail 24 M. 161.

2 When petitioner has no right of appeal to Privy Council, he cannot be granted bail, simply because he proposes to apply for leave The Court after conviction becomes *functus officio* 50 C. 585, 15 P R. 1908 Cr, 91 I. C 1001

3. High Court refused to grant bail when the application contained defamatory statements and attacks on trying Magistrate and other Government officers. 15 B. 489.

4 When Sessions Judge after considering the evidence before him grants bail, High Court will not go behind the finding and discharge the bail. 5 A. L. J 419=1908 A W. N. 195, 82 I C. 755=1925 N 228

5. High Court alone can grant bail, when accused is committed to custody by Coroner. 31 C. I.

6. Proceedings whether accused should be admitted to bail are judicial proceedings and are revisable by High Court 6 M 63.

7. The extended powers given to High Court under S. 498 are not to be used to get rid of the very reasonable and proper provisions of Law. 42 C. 25.

8. High Court should not grant bail in cases punishable with death or transportation except under exceptional circumstances 1930 R. 335=32 Cr. L. J. 148.

9. High Court can grant bail if the accused is tried under Criminal Law Amendment Act. 37 C. 439, 37 C. 412.

10. High Court is not merely to consider whether accused will abscond. 36 C. 166.

11. A person who broke his bail allowed by High Court is not entitled to have his revision application heard. 1923 A 327=71 I. C 704=24 Cr. L. J 240.

12. When Sessions Judge granted bail owing to the likelihood of great delay in taking up trial, High Court declined to interfere. 1929 Sind 137=30 Cr L. J. 845.

13. Where application for special leave to appeal to Privy Council is lodged, High Court may grant bail. 49 A. 247=1927 A 97=27 Cr L J. 1377.

14. Bail was granted to an accused, who could not otherwise conduct his case properly. 81 I. C. 956=1924 O. 435=25 Cr. L. J. 1132.

15. High Court should not interfere with the discretion of Magistrate except for special

Bail—(contd.)

circumstances. 5 R. 276=104 I. C. 101=1927 R. 205=28 Cr. L. J. 773.

16. The discretion of the High Court and Court of Sessions is not limited to Consideration set out in S 497. 134 I. C. 842 *See* 136 I. C. 707=1932 L. 436=33 Cr. L. J. 333.

17. If a person disappears after he is released on bail by High Court, he is not entitled to have his revision application heard 1923 A. 327.

18. If Sessions Judge has refused bail, High Court will not interfere unless he has exercised discretion improperly. 1933 Sind 367=35 Cr. L. J. 144, 25 A. 238 and 1927 Sind 28=27 Cr. L. J. 1217 Ref.

7. By Magistrates.

1. Under the amended S. 497, Cr. P. C. Legislature has practically laid down that bail should ordinarily be granted except for offences punishable with death or transportation. 51 C. 402 (417)=1924 C. 476=81 I. C. 220, 92 I. C. 590.

2. Whether there are reasonable grounds for believing the accused guilty must be decided judicially, *viz*, there must be evidence which if unrebutted would result in conviction. 36 C. 174, 10 C. W. N. 1093, 36 C. 166.

3. Power to admit to bail is not arbitrary. The Court has to consider the seriousness of charge, nature of evidence, severity of punishment prescribed for the offence and character, means and standing of the accused 51 C 402 (416)=1924 C 476

4. In bailable offence, bail is a right and not a favour. Detention in a lock up is the alternative and not the original order. 32 C. 80, 36 M. 274, 20 Bom L. R. 121.

5. It is only under S. 107 (3) and(4) that a Magistrate can detain in custody until the completion of inquiry, otherwise bail should be granted 32 C. 80 *Cont.* 36 M. 474.

6. Provisions of S 7 (2) of Extradition Act override S. 496, Cr. P. C. 20 Cr. L J 34—241.

7. Magistrate can grant bail to an accused arrested under S. 54 (7) Cr. P. C, whom he is asked to retain in custody by the District Magistrate of a Native State. 1925 B. 104=87 I. C. 100=26 Bom. L. R. 984=26 Cr. L J 948.

8 Magistrate can grant bail pending further Police investigation. 83 I. C. 727=1923 L. 663=23 Cr. L J. 167.

9. A Magistrate has no power to grant bail in a case under S 409, I. P. C. 1930 R. 335 =128 I. C 577=32 Cr. L. J. 148

10 A person accused of murder shall not be released on bail unless the case is based on suspicion. 99 I. C. 860=28 Cr. L. J. 188, 11 Pat. 280=1932 Pat. 209.

11. If the accused is charged with contemplated offence against the Magistrate, such Magistrate should not deal with the bail application. 1935 L. 230.

8. By police.

1. Persons arrested by Police under S 55, Cr. P. C., should always be given option of realease on bail. 14 A. 45.

2. Refusal by Police in a bailable offence to grant bail is illegal. 2 P. R. 1868.

3. A bond for appearance before Police officer is void 11 C. 77, 1925 L. 152

4. A Police officer cannot take third party's bond for the arrested person's appearance, though he can demand bail. 1928 L. 318=109 I. C. 219=29 Cr. L. J. 491.

9. By Sessions Judge S. 498, Cr. P. C

1. Sessions court has unlimited discretion to grant bail to the accused during Police investigation. 8 Cr. L. J. 49, 7 Bur. L. R. 86, 5 A. L. J. 419.

2. Sessions Judge has no power to release an accused on bail after convicting him and pending appeal. 4 Bom. L. R. 55.

3. Sessions Judge has power to grant bail on a reference under S. 123 (2), Cr. P. C. 50 C. 969=1923 C. 723=24 Cr. L. J. 953=75 I. C. 537.

4. Sessions Judge can grant bail, when a person is convicted and has not appealed. 5 A. L. J. 419=1908 A. W. N. 195=8 Cr. L. J. 49.

Bail—(*contd*)

5 That bail can be granted only to a person accused of non bailable offence is not applicable to the Court of Sessions acting under S 498, Cr P C 1929 A 614=117 I C 99=30 Cr L J 718

6 Accused convicted of non bailable offence should not be released on bail except when there is an error or mistake of Law or fact 1928 Sind 142=109 I C 118=29 Cr L J 470=22 S L R 435

7 Sessions Judge should grant bail under S 498 if the accused could interview his counsel and have a better chance of representing his case 51 A 603=1929 A 320=116 I C 748=30 Cr L J 697=1929 A L J 585

8 The discretion of High Court and Court of Sessions is not limited to the consideration set out in S 497 but it has to consider all the circumstances 1931 A 356=1931 A L J 515=32 Cr L J 1271=134 I C 842

9 Mere fact that committal order has been passed under Ss 309 149 does not in itself afford reasonable grounds to the Sessions Judge for believing the accused so committed to be guilty Hence it is no bar to granting bail to the accused 1935 Pesh 101—157 I C 286=1935 Cr C 853

10 Cancellation of

1 The Magistrate can cancel any bail if by further evidence the case is made out against the accused 36 C 174 1936 Sind 187

2 District Magistrate has no power to cancel a bail and order the re arrest of a person released on bail by a Subordinate Magistrate 1932 A 327 4 Bur L T 70, 22 B 549

3 However bad character an accused may be he is entitled to bail if law allows it 1932 A 327—139 I C 330=33 Cr L J 752

4 In a trial under S 124 A Penal Code if adjournment is given for preparing arguments bail should not be cancelled 1930 L 309—121 I C 425=31 P L R 11

5 Accused released on bail by Police cannot be committed to custody by Magistrate under S 497 (5) 1933 Sind 331 (2) *Cont* 1936 S 187

6 The word by itself in S 497 (5) mean by the Magistrate who commits the man to custody It does not include any other Magistrate of the same class 1933 Sind 331 (2)

7 If accused after release of bail misuses concession and tries to approach witnesses in order to minimise or destroy evidence, he is liable to be re arrested 1936 L 730—37 Cr L J 937=164 I C 376

8 High Court has wide powers to cancel bail if the discretion by the Subordinate Court is not exercised properly 1932 L 433, 1923 A 479, 1925 M 1224, 1933 B 492

9 Sessions Judge can cancel bail granted by committing Magistrate 1934 L 609

10 No other Magistrate than the one who has granted bail can cancel the same and order re arrest 22 B 549

11 If after charge accused applies for adjournment for argument, bail should not be cancelled 31 Cr L J 256=1930 L 309

11 Demand of heavy—*See* Transfer (Grounds)—47

1 An excessive bail beyond the means or capacity of accused should not be demanded 44 I C 345

2 Bail may be enhanced if case turns out to be more serious 13 Cr L J 474

12 Grounds for and against—

1 In case of delay in trial accused should be admitted to bail 6 M 63, 36 C 165, 10 C W N 163

2 When in the case of an accused 70 years old there is no body to instruct counsel in going through the documentary evidence bail should not be refused 89 I C 150=26 Cr L J 1256=1925 O 489, 81 I C 956

3 In ordinary criminal trial, when the accused would prefer to face a trial rather

Bail—(contd.)

circumstances. 5 R. 276=104 I. C. 101=1927 R. 205=28 Cr. L. J. 773.

16. The discretion of the High Court and Court of Sessions is not limited to Consideration set out in S. 497. 134 I. C. 842 *See* 136 I. C. 707=1932 L. 436=33 Cr. L. J. 333.

17. If a person disappears after he is released on bail by High Court, he is not entitled to have his revision application heard. 1923 A. 327.

18. If Sessions Judge has refused bail, High Court will not interfere unless he has exercised discretion improperly. 1933 Sind 367=35 Cr. L. J. 144, 25 A. 238 and 1927 Sind 28=27 Cr. L. J. 1217 Ref.

7. By Magistrates.

1. Under the amended S. 497, Cr. P. C. Legislature has practically laid down that bail should ordinarily be granted except for offences punishable with death or transportation. 51 C. 402 (417)=1924 C. 476=81 I. C. 220, 92 I. C. 590.

2. Whether there are reasonable grounds for believing the accused guilty must be decided judicially, *viz*, there must be evidence which if unrebutted would result in conviction. 36 C. 174, 10 C. W. N. 1093, 36 C. 166.

3. Power to admit to bail is not arbitrary The Court has to consider the seriousness of charge, nature of evidence, severity of punishment prescribed for the offence and character, means and standing of the accused. 51 C. 402 (416)=1924 C. 476

4. In bailable offence, bail is a right and not a favour. Detention in a lock up is the alternative and not the original order. 32 C. 80, 36 M. 274, 20 Bom. L. R. 121.

5. *It is only under S. 107 (3) and(4) that a Magistrate can detain in* custody until the completion of inquiry, otherwise bail should be granted 32 C. 80 *Cont.* 36 M. 474.

6. Provisions of S. 7 (2) of Extradition Act override S. 496, Cr. P. C. 20 Cr. L J. 34—241.

7. Magistrate can grant bail to an accused arrested under S. 54 (7) Cr. P. C., whom he is asked to retain in custody by the District Magistrate of a Native State. 1925 B. 104=87 I. C. 100=26 Bom. L. R. 984=26 Cr. L. J. 948.

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9. A Magistrate has no power to grant bail in a case under S 409, I. P. C. 1930 R. 335 =128 I C 577=32 Cr. L. J. 148.

10. A person accused of murder shall not be released on bail unless the case is based on suspicion. 99 I. C. 860=28 Cr. L. J. 188, 11 Pat. 280=1932 Pat. 209.

11. If the accused is charged with contemplated offence against the Magistrate, such Magistrate should not deal with the bail application. 1935 L. 230.

8. By police.

1. Persons arrested by Police under S. 55, Cr. P. C., should always be *given option* of realease on bail. 14 A. 45.

2. Refusal by Police in a bailable offence to grant bail is illegal. 2 P. R. 1868.

3. A bond for appearance before Police officer is void. 11 C. 77, 1925 L. 152.

4. A Police officer cannot take third party's bond for the arrested person's appearance, though he can demand bail. 1928 L. 318=109 I. C. 219=29 Cr. L. J. 491.

9. By Sessions Judge. S. 498, Cr. P. C.

1. Sessions court has unlimited discretion to grant bail to the accused during Police investigation 8 Cr. L. J. 49, 7 Bur. L. R. 86, 5 A. L. J. 419.

2. Sessions Judge has no power to release an accused on *bail after convicting him* and pending appeal. 4 Bom. L. R. 55.

3. *Sessions Judge* has power to grant bail on a reference under S. 123 (2), Cr. P. C. 50 C. 969=1923 C. 723=24 Cr. L. J. 953=75 I. C. 537.

4. Sessions Judge can grant bail, when a person is convicted and has not appealed. 5 A. L. J. 419=1908 A. W. N. 195=8 Cr. L. J. 49.

Bail—(*contd.*)

5. That bail can be granted only to a person accused of non-bailable offence, is not applicable to the Court of Sessions acting under S 498, Cr. P. C. 1929 A. 614=117 I. C. 99=30 Cr. L. J. 718.

6 Accused convicted of non-bailable offence should not be released on bail except when there is an error or mistake of Law or fact. 1928 Sind 142=109 I. C. 118=29 Cr. L. J. 470=22 S. L. R. 435.

7. Sessions Judge should grant bail under S. 498, if the accused could interview his counsel and have a better chance of representing his case 51 A. 603=1929 A. 320=116 I. C. 748=30 Cr. L. J. 697=1929 A L. J. 585.

8. The discretion of High Court and Court of Sessions is not limited to the consideration set out in S 497, but it has to consider all the circumstances 1931 A 356 =1931 A. L. J. 515=32 Cr. L. J. 1271=134 I C. 842

9. Mere fact that committal order has been passed under Ss 309 149 does not in itself afford reasonable grounds to the Sessions Judge for believing the accused so committed to be guilty. Hence it is no bar to granting bail to the accused 1935 Pesh. 101=157 I. C. 286=1935 Cr. C. 853.

10. Cancellation of.

1. The Magistrate can cancel any bail, if by further evidence the case is made out against the accused. 36 C. 174, 1936 Sind 187.

2. District Magistrate has no power to cancel a bail and order the re arrest of a person released on bail by a Subordinate Magistrate. 1932 A 327, 4 Bur. L T. 70, 22 B. 549.

3 However bad character an accused may be, he is entitled to bail if law allows it. 1932 A. 327=139 I C 330=33 Cr. L. J. 752

4. In a trial under S. 124 A, Penal Code, if adjournment is given for preparing arguments, bail should not be cancelled 1930 L 309=121 I C 425=31 P. L. R 11.

5. Accused released on bail by Police, cannot be committed to custody by Magistrate under S 497 (5) 1933 Sind 331 (2) *Cont* 1936 S 187

6. The word by "itself' in S. 497 (5) mean by the Magistrate who commits the man to custody It does not include any other Magistrate of the same class 1933 Sind 331 (2).

7. If accused after release of bail misuses concession and tries to approach witnesses in order to minimise or destroy evidence, he is liable to be re arrested. 1936 L. 730=37 Cr L. J 937=164 I C 376

8. High Court has wide powers to cancel bail if the discretion by the Subordinate Court is not exercised properly. 1932 L 433, 1923 A 479, 1925 M 1224, 1933 B 492

9 Sessions Judge can cancel bail granted by committing Magistrate 1934 L 609

10. No other Magistrate than the one who has granted bail can cancel the same and order re arrest 22 B 549.

11. If after charge accused applies for adjournment for argument, bail should not be cancelled 31 Cr L J. 266=1930 L 309

11. Demand of heavy—*See* Transfer (Grounds)—47.

1. An excessive bail beyond the means or capacity of accused should not be demanded. 44 I. C. 345.

2 Bail may be enhanced if case turns out to be more serious 13 Cr L J 474.

12 Grounds for and against—

1. In case of delay in trial accused should be admitted to bail 6 M 63, 36 C. 165, 10 C. W. N. 163.

2. When in the case of an accused 70 years old, there is no body to instruct counsel in going through the documentary evidence, bail should not be refused. 89 I. C. 150 =26 Cr. L. J. 1286=1925 O. 489, 81 I. C. 956

3. In ordinary criminal trial, when the accused would prefer to face a trial rather

Bail—(contd.)

than abscond, bail should be granted. 63 I. C. 414, 36 C. 166.

4. The principle to be deduced from Ss. 496-497 is that the grant of bail is the rule and refusal an exception 1931 A. 356=134 I. C. 842=32 Cr. L. J. 1271.

5. The present policy of law is to allow bail in the case of under-trial prisoners, rather than refuse it. 1925 L. 510, 1933 S. 367, 51 C. 402.

6. Accused is to be presumed innocent and he should be entitled to freedom to look after his case. 1931 A. 356=134 I. C. 842.

7. In a case involving taking of accounts the bail should be granted to allow accused to instruct his Counsel. 32 Cr. L. J. 1175 (2)=1932 L. 16.

8. Likelihood of the accused absconding or not is to be considered. 92 I. C. 703.

9. Severity of sentence must be looked at not from the point of sentence which the Courts have awarded but the maximum for the offence. 1929 L. 284.

10. The Court should consider the penal consequences of the act if proved and the nature of offence. 63 I. C. 414=22 Cr. L. J. 654.

11. When the allegations against the accused are general and not substantiated, bail should not be refused. 1930 B. 484=129 I. C. 341=32 B. L. R. 1131.

12. Bail should not be refused unless accused is likely to abscond or terrorize prosecution witnesses or commit similar or other serious offences. 1929 A. 614=117 I. C. 99=30 Cr. L. J. 718=1929 A. L. J. 927, 104 I. C. 101

13. If the Court is satisfied that there are reasonable grounds for believing that no case has been or is likely to be made out and there is no reason to believe that accused will abscond, the court should ordinarily grant bail. 33 P. L. R. 331.

14. A person accused of murder shall not be released on bail, unless the case is based on suspicion 99 I. C. 360=28 Cr. L. J. 181.

15 Save in exceptional cases, persons accused of crimes punishable with long terms of imprisonment should not by released by Magistrates or Sessions Judge on bail The richer the accused, the more easy it is for him to find bail, the less desirable it is that he should be released. 11 P. 280=1932 P. 209=33 Cr. L. J. 574.

16. Bail was granted when accused could not otherwise conduct his case properly. 81 I. C. 956, 1931 A. 356.

17. Bail should be granted under S 498 by the Sessions Judge if the accused could interview his counsel and have a better chance of representing his case. 51 A. 603 =1929 A. 320=116 I. C 748=30 Cr. L. J. 697=1929 A. L. J. 585.

18. That the accused is a Gashain and there is no body to look after his case is no ground for bail. 1934 A. 815.

19. Likelihood of tampering with evidence is a cause that should be judged in granting or refusing bail 1934 Sind 131, 1929 Sind 137, 1927 R. 205, 1932 P. 209 and 1927 P. 302 Rel. on. 1925 M. 1224.

20. The following points should be considered in granting or refusing bail; (1) nature of accusation; (2) nature of evidence; (3) the severity of punishment; (4) whether accused is likely to tamper with prosecution evidence or get up false evidence in support of his defence. 1933 Sind 367=35 Cr. L. J. 144, 51 C. 402, 1929 L. 284, 1927 N. 53, 1927 P. 302, 1927 R. 205, 1926 R. 51.

21. That one of accused should arrange for friends and defence is not sufficient ground for bail where release is likely to lead to tampering of evidence. 1933 A. 895.

22. In case of protracted and complicated trial under S. 409 bail should be granted. 1933 B. 492.

23. In a case under S. 307, I. P. C., bail should not be allowed if the injured person is not well enough to be subjected to identification parade. 1932 L. 433.

24. The richer the accused and the more easy it is for him to find bail and less it is desirable that he should be released. 1932 P. 209.

25. In India the opportunities for corruption of witnesses is so great that the risk involved cannot be exaggerated. Hence bail in murder cases should not be allowed without order of High Court. 1932 P. 209=33 Cr. L. J. 574.

Bail—(contd)

26 Grant or refusal of bail is to be determined *judicially* having regard to the circumstances of the case 1932 L 16 1924 O 435 1925 S 257, 10 C W N 163

27 The Court is not called upon to conduct a preliminary trial of the case and consider the probability of accused s guilt or innocence 1925 M 1224

28. If accused s character is such that if released he will intimidate or tamper witnesses or is likely to suborn evidence, bail should be refused 1930 B 484 1925 R 51, 1934 S 131, 1932 P. 209, 1933 A 895 36 C 174

29 If accused is likely to commit similar or other serious offences bail should be refused 1929 A 614, 1928 B 244=29 Cr L J 901

30 Where there is no likelihood of absconding or terrorizing prosecution witnesses bail should be granted 51 A 603, 1931 A 356 33 Cr L J 497

31 The mere fact that accused is a respectable man and can afford reasonable security is insufficient for bail 1926 N 279

32 The mere fact that grant of bail will prejudice the case 1925 L 510 or that the offence is a serious one is no ground for refusing bail 1925 O 489

33 In cases involving taking of account bail should be granted to enable accused to instruct his counsel. 1932 L 16 32 Cr L J 1175

34 Where remand is applied for the evidence of Police officer that the Police are in possession of reliable information is sufficient 6 M 69 But for a further remand some direct evidence of accused s guilt is necessary 6 M 69 36 C 166 Where after remand no incriminating evidence is forthcoming bail will be granted 36 C 174 166

35 During trial accused must satisfy the court that there are no reasonable grounds that he has committed the offence 1923 A 479 21 Cr L J 161

36 However bad character a man may be he is entitled to bail if law allows it 1932 A 327=33 Cr L J 752

13 In bailable offence S 496 Cr P C

In bailable offence bail is a right and not favour 32 C 80 36 M 274 108 I C 689

14 Increase of S 501 Cr P C

1 A Magistrate is justified in increasing the amount of bail if by further inquiry the offence appears more serious than at first imagined 66 P L R 1912=4 P W R 1912 Cr =13 Cr L J 474

2 Increase of bail is no ground for transfer of case from the Magistrate 66 P L R 1912=13 Cr L J 474

3 S 501 applies when there is a surety and not when accused is let out on his own bond 38 M 1088.

4 A trial Court can increase the amount of bail 1932 A 327=33 Cr L J 752

15 Inherent powers of High Court to grant *See* Inherent Powers

16 Leniency in *See* Transfer (Grounds)—56

17 Pending appeal to Privy Council *See* Privy Council—4

18 Revision

1 An order of Sessions Judge granting bail can be revised by the High Court 1925 N 225=25 Cr L J 1363 6 M 63

2 Admission to bail is discretionary When there is nothing to show that Sessions Judge has not exercised his discretion with proper care or that the case is otherwise exceptional High Court will refuse to interfere with the discretion 5 Cr L J 49, 1925 R 129, 6 M 63 1929 S 137 8 Bom L R 420

19 Right to argue—application

Accused has no right to personally argue his bail application although in special cases he can be permitted to do so 1931 A 356=32 Cr L J 1271

BAIL BOND. Ss. 499, 514 ; Cr. P. C.

1. By surety only.

Where bond for appearance is executed by surety only and not by accused, it can be forfeited. 1934 A. 1046

2 Construction of—.

1. It is illegal to take separate bonds from accused or sureties individually and severally exceeding the aggregate amount for which the accused is liable. 30 P. R. 1890.
2. Evidence to explain terms of bond is admissible. 55 P. L. R. 1902.
3. Bonds for appearance should be strictly construed. 36 C 749, 2 Weir 663, 65 I. C. 420, 26 P. R. 1918, 30 P. R 1889, 37 P. R. 1881, 20 P. R. 1878.
4. Bond was taken for appearance on Sunday only. On Monday the accused did not appear. Bail bond cannot be forfeited. 2 C. W. N. 519.
5. Bond executed by principal and sureties to be considered as one bond. 26 P. R. 1894.

3 Forfeiture of—.

1. Bail bond for a person arrested under S. 55 does not require surety to produce him for any other offence. 25 Cr. L. J. 131.
2. Failure to appear in another Court to which the case is transferred does not entail forfeiture of bond, when a specified Court is mentioned in the Bond. 30 C. 107, 36 C. 749, 2 R. 581 (585).
3. Bond becomes extinct when penalty is paid. 11 P. R. 1889.
4. Omission to record grounds of forfeiture vitiates proceedings. 3 P. L T. 381.
5. When a bond under S 110 is taken from a person ordered to execute a bond under S 107, Cr. P. C, it cannot be forfeited 42 P. L. R. 1904.
6. Where warrants to witnesses were issued in the first instance without recording reasons under S 90, Cr P. C, the warrant is wholly illegal or the bond given by surety cannot be forfeited 7 P. W. R. 1918, 22 P. W. R. 1907.
7. Death of accued discharges sureties from all liabilities 37 M. 156, 17 Cr. L. J. 393.
8. The order of forfeiture must be passed immediately When ordering forfeiture of the bond, a Magistrate does not order forfeiture of recognizance, he cannot do so subsequently and in a subsequent proceedings. 13 P L R 1913 Cr, 25 Cr. L J. 4=1924 L 680=26 P. R 1904 Cr. *See* 15 P. R. 1917 *Cont.* 26 A. 202
9. Amount in excess of the amount secured by the bond cannot be recovered 226 P. L R 1911, 5 L. 448 (449)=1925 L. 228=26 Cr. L J. 322.
10. When the amount of bond under S 107, Cr. P. C, is recovered from the Principal, sureties are not liable. 25 P. R. 1894, 4 L. 462, *Cont.* 36 C. 562, *See* 16 Cr. L. J. 100.
11. The proceedings to realise penalty are of civil nature 3 P. L. T. 381, and the person proceeded against can give evidence on oath. 15 W. R. 87. The proceedings are not 'trial' in the sense of the Code. 2 M. 169.
12. If the Magistrate who tries the accused is aware of security bond and does not pass any order, no other Magistrate can in subsequent proceedings forfeit the bond 3 P. R. 1917 Cr.
13. A bond undertaking to produce the accused whenever required, but not mentioning the time and place is not illegal. 1923 C. 261.
14. Surety undertook to produce the accused in one Court and accused on his way to another Court absconded Forfeiture of bond was upheld but the amount was reduced 49 A. 825=1927 A 831. *Cont.* 1936 N. 243.
15. Bond can be forfeited if the date is not given, when undertaking by accused and surety is in the same bond 46 I. C. 47=19 Cr. L J 687.
16. Order of forfeiture not in terms of the bond cannot be sustained. 1930 P. 519.
17. Liability of surety does not terminate merely because he was under arrest for a day or two 1931 P. 19=130 I. C. 161=32 Cr. L. J. 467=12 P. L. T. 814.

Bail Bond—(contd.)

18. Person giving security for Rs. 1,000 at Sub-Inspector's request should not on forfeiture be required to pay more than Rs. 25, nor should it be wholly recovered from the Principal. 5 P. W. R. 1918 Cr.=150 P. L. R. 1917=44 I. C. 264.

19. Surety's plea that they were not allowed to exercise proper control of accused confined in hospital guarded by Police, should be considered. It may mitigate the penalty. 1930 L. 591=125 I. C. 376=31 Cr. L. J. 869.

20. If there is room for doubt as to the date of next hearing and the accused was not produced, order of forfeiture cannot be sustained. 1929 P. 658=31 Cr. L. J. 605.

21. There should be a finding that bond is forfeited. Order of bail, bail bond and absence of accused is sufficient proof. 1929 P. 658=124 I. C. 85, 1929 P. 643.

22. Bond to a Magistrate who had no jurisdiction and was not competent to admit him to bail, for appearance before another Court, is null and void. 1929 A. 914=120 I. C. 194=31 Cr. L. J. 2

23. Bond was executed by Supurdar to Police to produce goods before Court but he failed to do so Court ordered him to execute another bond. The latter bond can be forfeited as it fell under S. 516-A. 1929 L. 658=30 Cr L. J. 527.

24. Court should first issue warrant of attachment and sale. If the penalty is still unpaid then he can be imprisoned 1928 R. 310=30 Cr. L. J. 346.

25. If the person required to execute the bond is a minor, it should be executed by surety only. 1928 L. 318=109 I. C. 219=29 Cr. L. J 491.

26. Where the Court does not sit on the day fixed, security cannot be forfeited. 1928 L. 20=29 P. L. R. 231=106 I. C. 108=28 Cr. L. J. 1020.

27. Where in S. 107 case accused and complainant agreed not to appear, surety cannot be made to pay the penalty. *See* Ss. 107-514, Cr. P. C.

28. Magistrate on convicting the accused of violence should immediately forfeit the bond to keep the peace. He cannot do so subsequently. 1924 L. 680=25 Cr. L. J. 4=75 I C 692. *Cont.* 92 I. C. 742=27 Cr L J 326=1926 Sind 180.

29. Bond should not be forfeited if accused is arrested 4 P. 259=1925 P. 369.

30. If Court discharges accused, bond becomes cancelled. 84 I. C. 944=1925 O. 314.

31. If the case is transferred to A D. M. bond cannot be forfeited by District Magistrate. 1925 R. 153=84 I. C. 933=26 Cr. L J. 389, 57 I. C 456=21 Cr. L. J. 652.

32 On conviction under S. 323 or S. 325, bond for good behaviour can be forfeited. If surety and accused, each gave a bond, only one bond can be forfeited. 4 L. 462=1924 L. 262=25 Cr. L. J. 1131=81 I. C. 955.

33. If proceeding for breach of bond under S. 107 are taken within one year from the date thereof, they are valid if completed after one year. 44 A. 657=1922 A. 503.

34. Even if original agreement is void, surety is liable. 2 L. 204.

35. Bond of surety is not forfeited if offence is committed in a Native State. 26 P. R. 1918 Cr.

36. Bond for appearance before Police under Bombay City Police Act cannot be forfeited under S. 514. 42 B. 400.

37. Bond for good behaviour can be forfeited if accused are guilty of rioting. 15 P. R. 1917 Cr.

38. If Magistrate is unaware of the recognizance, while passing sentence, proceedings under S. 514 by another Magistrate are valid. 3 P. R. 1917 Cr.

39. Accused was convicted of cheatihg and fined Rs. 1,000. He entered into a bond to appear on August 24. The time was again and again extended till 4th September, when his bond was forfeited. Held, that the forfelture was illegal as he never undertook to appear on September 4. 56 B. 220=1932 B. 290=33 Cr. L. J. 628.

40. In a bond for appearance, the liability of surety does not end by the arrest or detention of accused for a day or two before the date when he was to be produced in Court. But if he escapes from such an arrest or detention and disappear, the surety is not liable. 1931 P. 19, 37 M. 156 and 1925 P. 389 Dist.

Bail Bond—(contd.)

41. Surety bond to produce accused in a certain place on a certain date is not forfeited if he is produced at a different place on different date 1934 C. 763

42. If a person denies the execution of a bail bond, Magistrate cannot order forfeiture of bond without taking some evidence of execution of bond. 1935 C. 336 (1)

43. If the accused absconds and is re arrested and amonnt of surety forfeited is excessive and surety is unable to pay, court can remit a portion. *1935 C* 246, *1933* L. 42=145 I. C. 967 and 49 A. 825=1927 A. 831=28 Cr. L J. 586 Rel. on.

44. If the Court is not present on the date and accused is present, sureties are not responsible for next appearance. 1934 L. 294.

45. If compromise between the parties is accepted by the Court proceedings against sureties are not justified. 1934 L. 294

46. A Sub Divisinoal Magistrate cannot hear appeal against an order under S 514. 1934 L 294.

47. If the case is transferred, and another surety bond is taken, the first bond was discharged under S 134, Contract Act 1934 Sind 152

48 If the surety undertakes to produce accused till disposal of case, and the case is sent to another Magistrate, surety is not discharged 1934 C. 785, 30 C. 107 and 1934 C. 101 Diss.

49. Where the bond is forfeited and accused is subsequently found, the amount was reduced from Rs 2,000 to Rs 500. 1933 L 42.

50. Surety executed bond for attendance of accused. Accused absconded and surety amount was realised from accused s property. Surety is still liable. *1933* Sind *320*, 1925 L. 228, 1924 L. 262 Diss 20 A. 206 and 36 C. 562 Appr

51. A bond to produce the accused in " Court at B till decision " is too vague and cannot be enforced. 1936 N 243.

52. It is not for the surety to show that bond is illegal but the crown must show that it is such that can be enforced in law. 1936 1934 N. 243

53. Surety undertook to preduce accused in a particular Court. His failure to produce him in a totally different Court is not a breach of bond 1936 N. 243, 30 C 107 and 1925 R. 153 Rel. on.

54. S 499 is exhaustive of conditions which can be imposed on sureties Court cannot insert provision that surety shall undertake to produce the accused till decision *1936 N. 243.*

4. Imprisonment of surety.

If the bond is forfeited, a warrant of attachment should be issued. If it is infructuous an order for the imprisonment in Civil jail should be passed at a subsequent date 1934 A. 1046

5. New Surety Bond

Execution of new surety bond does not discharge surety who had executed another bond previously. 1934 Sind 152

6 Notice for forfeiture.

The accused and the surety are entitled to reasonable notice of the time at which the former would be required to attend. In the absence of notice, bond cannot be forfeited. 4 M. H. C. R. App. 45.

7. Revision. S. 515, Cr P. C.

Where an appeal is not admitted, District Magistrate can himself entertain revision on order passed under S. 514. He need not send the case to High Court. 1934 Sind 152

BALANCE SHEET.

1. False. *See* False evidence—12.

Issue of false balance sheet by the Manager that bank is solvent while it is not, is cheating under S. 418. 16 A. 88, 28 P. R. 1915 Cr.

Balance Sheet—(*contd.*)

2. Filing of.

1. Persons ceasing to be Directors before expiration of 12 months after registration of company are not liable for non-filing of balance sheet. 17 P. R. 1914 Cr.

2. For non-filing of balance sheet Directors as well as Managing Agents are punished. 18 P. R. 1916 Cr.

3. There is a liability of Directors inspite of resignation of position as Managing Director or Chief Secretary before the prosecution. 38 P. W. R. 1914 Cr.

BANDH CUTTING. *See* Right of private defence—10.

BANNS OF MARRIAGE. *See* Bigamy—6.

BANK MANAGER

1. Breach of trust by. *See* Breach of Trust—13.

2. Falsification of acoount by. *See* Falsification of account.—1.

BANK—MONEY IN—.

Accused deposited stolen money in Bank. The money becomes the property of the Bank and no order under S. 94, Cr. P. C., can be passed, nor can it be attached. 58 B. 152 =1934 B. 74. *Halsbury's Law of England, Ed. I, Vol. I, Art. 1192.*

BANK NOTES. *See* Counterfeiting Currency Notes.

BANKER. *See* Breach of Trust—9.

BARRISTER. *See* Counsel.

BEARD PULLING. *See* Insult to provoke breach of peace—6.

BEATING—DEATH BY. *See* Culpable Homicide—5.

BEHAVIOUR. *See* Security for good behaviour.

BELONGING TO GANG OF DACOITS. *See* Gang of Dacoit.

BELONGING TO GANG OF THIEVES. *See* Gang of Thieves.

BENCH OF MAGISTRATES. Ss. 15-16 Cr. P. C.

1. Absence of one of the Magistrates.

1 One of the Magistrates constituting the Bench did not hear the evidence and judgment was pronounced on his opinion as well. Held, that the trial was illegal. 41 A. 116, 17 A. L. J. 379, 53 I. C. 823=20 Cr. L. J. 823, 38 M. 304.

2. One of the Magistrates left the case early and the judgment was written by the other two, the trial is legal. 40 I. C. 749=18 Cr. L. J. 749.

3. Absence of some Magistrates at the time of judgment is immaterial, when they were present at the earlier stages. 38 M. 797, 21 M. 246, 20 C. 870. *Cont.* 44 B. 400.

4. If one of the Magistrates is attending to some other work, when the case is being heard, accused is prejudiced. 1922 O. 21=23 Cr. L. J. 696.

5 If there were different Magistrates at different hearings, retrial was ordered. 1923 O. 163=76 I. C. 566=25 Cr. L. J. 198.

6. It is certainly wrong that a Magistrate who was absent during part of trial should express an opinion on the evidence. 1921 B. 44=22 Cr. L. J. 615.

7. If one of the Magistrates was competent to try alone and he tried and passed judgment alone, the trial is legal. 1924 A. 674.

2. Change in the constitution of—S. 350-A., Cr. P. C.

1. Where a Bench of three Magistrates constituted under the rules commenced trial and heard the Prosecution evidence, but afterwards one member of the Bench was absent and the remaining two Magistrates went on with the trial and convicted the accused. Held, that the trial was void. 44 B. 400, 2 L. 237.

2 Where one of the Magistrates constituting Bench was absent on two important hearings but joined the others later and signed judgment the trial was vitiated. 1932 N. 95=15 N. L. J. 11=138 I. C. 175=33 Cr. L. J. 559.

3. Where one of the members of the Bench did not hear the statement of the witnesses

Bench of Magistrates—(concld.)

for the complainant in examination-in chief, S. 350 A was held not complied with and the order of acquittal was set aside. 1932 A. 191=33 Cr. L. J. 885.

4. The presence of all the Magistrates constituting the Bench on all the hearings is indispensable for the valid trial of a case pending before it. If one of them is absent on some occasions when witnesses were examined, the trial is illegal. 1932 A. 127.

5. S. 350 does not apply to cases tried by Benches of Magistrates. 2 L. 237.

6. S. 530-A applies only to cases where one or more members drop out altogether and the remaining Magistrates were present throughout. If a Magistrate who was not present throughout pronounces judgment, the defect is curable under S. 537, Cr. P. C. 1934 A. 144=152 I. C. 158.

7. Three Magistrates tried the case, one was absent when evidence was recorded. All joined in deliberations and signed judgment and unanimously found the accused guilty. Conviction was set aside. 1934 A. 144=152 I. C. 158, 1933 A. 355=34 Cr. L. J. 701, 1932 A. 191=54 A. 413. Expl and Dist. 1932 A. 127=33 Cr L. J. 200 Ref.

8. Evidence heard on several occasions by one member of Bench makes the trial illegal. 1934 O. 85=147 I C 1209.

9. Out of three Magistrates, two were present throughout and signed the judgment. Held, that trial was not illegal. 1933 A. 355=24 Cr. L. J. 701.

3. Difference of opinion

1. In case of difference of opinion about the guilt, the benefit of doubt should be given to the accused. 27 I. C. 177—16 Cr. L. J. 113.

2. Though under rules 9 and 10 of the rules of Bombay Government, the opinion of chairman prevails yet the dissenting judgment of the other Magistrate should form part of the record. 1927 B. 630=106 I. C. 209.

3. In a case where the President of the Bench is in a minority as to conviction or acquittal, the judgment should be written by some member of the majority. 51 M. 338=1928 M. 197=106 I. C. 799=29 Cr L J. 207.

BENEFIT OF DOUBT. *See* Evideuce 15, Murder—16.

1. *Benefit of doubt is given.*

1. When prosecution evidence is unsatisfactory. 19 Cr. L. J. 689, 17 Cr. L. J. 9.

2. When there is a material discrepancy in prosecution evidence. 12 I. C. 217.

3. When accused is not mentioned in F. I. R. 33 P. W. R. 1911 Cr., 34 P. R. 1914.

4. When the theory of guilt and innocence are both likely. 1925 O. 676=87 I. C. 962 =26 Cr. L. J. 1042, 14 Cr. L. J. 251, 1930 S. 99=31 Cr. L. J. 117.

5. When a *prima facie* case is not made out. 1925 S. 289=88 I. C. 7.

6 When a Police Officer refuses to refer to diary. 1935 P. 131=26 Cr. L. J. 738.

7. When accused's action is open to two constructions—honest and criminal. 1924 M. 876=82 I. C. 149.

8. When there is a doubt in identification. 5 L. L. J. 317.

9. When the deceased himself makes no mention in F. I. R. when alive as to the guilt of accused and majority of eye witnesses mentioned in the F. I. R. are not produced 1922 L. 28=3 L. L. J. 585.

10. When it is doubtful if accused was at all present at the scene. 1923 L. 195.

11. When evidence on both sides is evenly balanced and accused has been offering satisfactory explanation in respect of accusation. 117 I. C. 212=30 Cr. L. J. 727.

12. Where part assigned to any particular accused is falsified by medical evidence, and locality and motive for fight are not established. 1927 L. 617=28 Cr. L. J. 685.

13. Where the incriminating article was found in a joint family house. 1928 C. 264, 67 I. C. 338=1922 A. 83.

14. Where a person is charged under Arms Act and Opium Act and is acquitted under the latter on the ground that opium might have been placed by his servant who

Benefit of doubt—(concld)

was a *badmash* Held that his conviction under Arms Act should be set aside on the same ground 97 I C 743=27 P L R 651=27 Cr L J 1159

15 When there are discrepancies between the F I R and the subsequent evidence 172 P L R 1914, 188 P L R 1915, 92 I C 209

16 When prosecution evidence is interested 26 P L R 816

17 When two persons are charged and only one is guilty and there is a difficulty in affixing responsibility 10 L L J 369

18 Where witnesses mentioned in first information report are not produced at the trial 1922 L 28=3 L L J 535

19 When the case is entirely on confession and the manner in which confession is obtained is uncertain 1930 L 88=119 I C 420=30 Cr L J 1080

20 In case of discrepancy between vernacular and English record of evidence in the statement of a principal witness on a material point the accused gets the benefit of doubt 24 Cr L J 624

21 Where different constructions can be placed on an accident it is right to put the construction that is most favourable to the accused 1931 O 385=132 I C 270 =32 Cr L J 851, 54 M 931

22 If a witness does not implicate one of accused in his previous examination in the absence of accused, the benefit of doubt should be given to him 1934 L 211 (1)

23 When accused was mere spectator 1933 O 123

24 When direct evidence is not convincing and assessors give a unanimous verdict of not guilty 1933 L 714

25 If the prosecution evidence is unsatisfactory accused must be given the benefit of doubt without considering the weakness of defence 1933 O 457=147 I C 111

2 Meaning and scope

1 Benefit of doubt means benefit of a real and reasonable doubt in the mind of the Court 1924 A 511=84 I C 548=26 Cr L J 324

2 Suspicion is no substitute of proof 1923 L 4 43 P W R 1913 Cr

3 It is much better that a guilty man should be acquitted than that an innocent man should be wrongly convicted 1931 C 752=134 I C 1191=54 Cr L J 244=33 Cr L J 85=1931 Cr C 1016

4 *It is better that ten guilty men should escape than that one innocent man should suffer 2 Hale P C 289*

5 No man can be convicted when the theory of his innocence is as likely as that of his guilt and he should be given the benefit of doubt 15 Bom L R 315=14 Cr L J 251 1923 L 537=25 Cr L J 424

6 But the doubt of which a benefit is given to the accused must be such as reasonable men may reasonably entertain and not the doubt of a weak and vacillating mind 31 Bom L R 515 56 M 231

3 Omission of—in a charge to Jury

When the evidence is so weak as to make guilt of accused doubtful omission to direct Jury to give benefit of doubt to accused may be misdirection prejudicing accused 1935 C 31=154 I C 110=36 Cr L J 480 4 Cr L J 502

BESTIALITY *See* Unnatural offence—3

BETROTHAL

Buying a wife is not criminal 19 P R 1867 Cr

BHUNGA S 215, I P C *See* Gift to recover stolen property

BID BY PUBLIC SERVANT Ss 169—185 I P C *See* Public Servant

BIGAMY S 494, I P C

1. Abetment of

1 The priest who officiates at a bigamous marriage intentionally

Bigamy—(contd.)

persons present at the celebration or who permitted it in the house. 6 B. 126, 10 M. 218.

2. A man may be *guilty of abetment* although the girl may be from want of intelligence or age or knowledge, incapable of committing this offence. 6 C. W. N. 343, 21 A. L. J. 187.

3. Where a Mahomedan guardian of a married female infant, caused a marriage *ceremony* to be gone through in her name with another man, but without her taking any part in the transaction, he is not guilty of abetment. 4 C. 10.

4. *It must be proved that accused knew* that the person he married was the wife of another. 1931 L. 194=32 Cr. L. J. 1210, 1934 A. 589=35 Cr. L. J. 1053.

5. The Court while acquitting the accused of the offence of kidnapping directed the District Magistrate to take action under Ss. 494—109, I. P. C. 7 P. R. 1894.

6. Where a person marries a woman unaware of her prior secret marriage, he is not guilty of abetment. 1933 L. 164.

2. *Absence of husband.*

1. Absence of husband for 4 years does not validate marriage under Mahomedan Law. 27 P. R. 1878 Cr

2. Absence of husband for 7 years justifies second marriage. 1 P. R. 1900 Cr.

3. Apostacy of a Christian.

1. A European lady became convert to Hinduism and *married in accordance* with the Hindu rites, her marriage is valid. 52 M. 160, 1922 B. 32.

2. A Christian cannot by embracing Mahomedanism marry a second *time* during the life time of his first wife. (1871) 14 M. I. A. 309—324.

3. Accused a Christian woman who had married a Christian according to Christian rites, became a Mahomedan during the life time of her husband and married a *Mahomedan. Held, she was guilty of bigamy.* 5 P. R. 1919 Cr.

4. A Hindu Christian convert relapsing into Hinduism and marrying a Hindu woman, cannot be convicted of bigamy on the ground that he has another wife living whom he married while he was Christian. (1866) 3 M. H. C. App. 7 (1886). 1 Weir 563, 33 M. 371, 1932 L. 116 *Cont.* 30 M. 550.

5. Whether a change of religion made honestly after marriage with the assent of both spouses, will have the effect of altering rights incidental to the marriage is an important question which has not been decided as yet. 25 C. 537.

6. A Christian marriage is not dissolved by the apostacy of one of the parties. 5 P. R. 1919 Cr., 18 C. 264, 49 P. R. 1907 Cr. Foll. 33 M. 371 Dist.

7. A Hindu male marrying a Christian woman *in England* in Christian form and subsequently marrying a Hindu female in Hindu form during the life time of his wife, is not guilty of bigamy. 1932 L. 116=136 I. C. 262, 33 M. 371.

4. Apostacy of a Hindu.

1. *Apostacy of Hindu wife cannot affect* dissolution of marriage. 32 P. R. 1870 Cr, 49 P. R. 1907 Cr, 152 P. R. 1890, 1925 A. 474=85 I. C. 459.

2. Conversion of Hindu wife to Mahomedan religion does not dissolve marriage. 49 P. R. 1907 Cr.

3. Conversion to Islam of a Chamar does not dissolve her marriage. 1 L. 440.

4. A Hindu woman who having a husband living marries a Mahomedan even after becoming Mahomedan commits bigamy. 4 B. 330, 1 L. 440, 110 P. W. R. 1907, 18 C. 252-264.

5. A Hindu woman *who having a* husband living marries a Christian *even* after becoming Christian commits bigamy. 10 M. 218.

6. A Hindu *marriage is not dissolved* by conversion of *one or both of the* parties to Christianity. 18 C. 264, 32 P. R. 1870, 49 P. R. 1907.

5. Apostacy of a Mahomedan.

1. The marriage of a Mahomedan is dissolved by embracing Christianity or Hinduism.

Bigamy—(contd.)

1928 L. 954=111 I. C. 160, 33 A. 90, 39 C. 409, 85 P. R. 1906 Cr., 33 A. 90, 1924 L. 397, 132 P. R. 1884, 61 P. R. 1899 Cr., 85 P. R. 1906 Cr.

2. Marriage of a Mahomedan woman after apostacy of her first husband but before expiry of *iddat* is invalid. 39 C. 409.
3. Adoption of Ahmadyan faith is no apostacy from Islam and second marriage by his wife is bigamy. 45 M. 986.

6 Attempt at.

Where a man having a wife living, caused the banns of marriage between him and a woman to be published, he was not guilty of attempt to marry again under S. 494. 1 A. 316.

7. Bona fide belief about the annulment of first marriage.

A married Mahomedan girl on attaining puberty brought a suit to have the marriage declared void, as she wished to repudiate it and obtained *ex parte* decree, which was set aside and suit withdrawn. She then married accused. It was found that accused did not know that *ex-parte* decree had been set aside. He was not guilty as by mistake he married her. 31 P. W. R. 1918 Cr.

8 Complaint of. S. 198, Cr. P. C.

1. In a case of bigamy husband is the only "aggrieved" person to make a complaint. 26 C. 336, 14 I. C 204.
2. The brother of a lunatic husband is not a person aggrieved by the wife's bigamy. 10 B. 340. *See* 3 C. L. J. 38.
3. Father of the husband is not an aggrieved party. 32 A. 78, 13 Cr. L. J. 204.
4. Brother of the husband cannot complain. 25 A. 132, 11 O. C. 148
5. A minor husband can lodge complaint. 1922 L. 168=68 I. C. 837.
6. A complaint of husband is necessary for a charge of abetment of bigamy. 1926 A. 189=91 I. C 533=24 A L. J 155=27 Cr L J. 101.
7. The complaint may not contain the section of the Code. It is sufficient if it lays down matter, which if proved, would warrant commitment under S 494. 25 A. 209.
8. The mere fact that complaint is written at the suggestion of Police is immaterial. 5 P. R. 1919 Cr.
9. Complaint is necessary for cognizance of offence of bigamy. 7 P R. 1894 Cr
10. Trial of offence of bigamy is not competent on a complaint under S. 498, I P. C. 5 P. R. 1879 Cr, 19 P. R 1882 Cr.
11. Conviction under S. 498 is legal on a complaint under S. 494. 5 P. R 1879 Cr.
12. If a complaint is dismissed on the ground that the complainant failed to prove his marriage with accused, a fresh complaint cannot lie. 1929 L 544

9. Concealment of former marriage in S. 495, I P. C.

1. A woman who contracts second marriage sixteen months after the first marriage without disclosing the fact or ascertaining the whereabout of the first husband 4 W. R. (Cr.) 25.
2. But where the accused was only 10 years old and marriage was negotiated by her mother, she was given the benefit of S 83. *Ratan Lal* 876

10. Custom as defence

1. *Bona fide* belief that the consent of the caste made the second marriage valid is no defence for bigamy. 1 B 347 *Cont.* 17 M. 479.
2. There is nothing immoral in a caste custom by which divorce and re marriage are permissible on mutual agreement by paying the expenses of marriage and getting divorce. 17 M. 479.
3. A custom of Talpade Koli caste that wife can remarry during her husband's life time is illegal. *(1864) 2 B. H. C. 117.* 17 Bom. L. R 554
4. Husband went to Africa and did not write to his wife nor sent her money. She got from the caste people a release (*fargati*) dissolving marriage and married again.

Bigamy—(contd.)

Held, she was guilty. 19 Bom. L. R. 56. *See* 18 Cr. L. J. 468.

5. Calcutta High Court has upheld a custom which allowed the wife to undergo a *Nikah* or *Sagai* marriage after she was relinquished by her husband. 19 C. 627.

6 Evidence of custom should be allowed by the Court. (1896) 1 Weir 568.

7. A custom of *Sagai* marriage during the life time of husband though a valid defence must be strictly proved in the particular caste and in the particular area. 1926 P. 346=96 I. C. 115=27 Cr. L. J. 867.

8. A custom of Mahomedan sect that a woman can marry again after the absence of her husband for four years is not covered by exception to S. 494. 18-27 P. R. 1878

9. Custom of second marriage during life time of husband without annuling marriage is offence, which cannot be obliterated by subsequent divorce. 1932 M 561=33 Cr. L J. 647. 2 Bom H C. R. 117, 7 Bom. H. C R. 133 and 22 I. C. 697 Foll. 1 B. 347 ; 4 B. 330 ; 6 B. 126, 10 M. 218 ; 17 M. 479 and 19 C. 627 Dist.

10. Polygamy is not permitted to women by General Hindu Law.

11. Defence for.

1. If the accused *bona fide* believed that the earlier marriage was set aside by the court, he would not be guilty. 31 P. W. R. 1918 Cr

2. Ignorance of law is no defence under S. 494. 1 B. 347—97, 6 B. 126.

3. The doctrine of certain Mahomedan Divine that a wife can remarry if her husband is absent for four years is no defence. 27 P. R 1878 Cr.

4. Mistake of fact about first marriage is no defence under S. 79, I. P. C., in a case of bigamy. 45 M. 986=1923 M. 171=24 Cr. L. J. 17.

12. Essentials and Evidence.

1. Where in the first marriage the giving of the bride was with the consent of the legal guardian who was in jail, the second marriage constituted bigamy. 1928 P. 375=111 I. C. 762=9 P. L. J. 397.

2. A marriage tainted by fraud is voidable and is not rendered invalid until set aside by court. It can sustain an indictment of bigamy. 2 L. 288.

3. Making of report to Police to prevent second marriage is a strong corroboration of evidence of first marriage. 1923 A. 329=21 A. L. J. 187.

4. It must be proved that accused had already been married to some one. 4 P. R. 1874 Cr , 27 P R. 1878 Cr., 17 P. R. 1893 Cr.

5. Marriage in S 494 means going through a form of marriage whether marriage should in fact prove legal or not. 45 C. 641.

6. Where a child of 10 years married again during the life time of her husband and the marriage was negotiated by her mother, she was not guilty. Cr. R. 55 of 1896, Unrep Cr. C. 876.

7. A Hindu male contracted his first marriage with a Christian woman in England in Christian form, and subsequently married for a second time, while his first Christian wife was living, a Hindu woman in Hindu form. Held, he was not guilty of bigamy. 1932 L. 116=136 I C. 202=33 P. L. R. 339=1932 Cr. C. 96

8. If the second marriage takes place in the life time of the first husband without annuling first marriage, the offence is complete and the subsequent divorce is of no avail. 1932 M. 561=138 I. C. 518=33 Cr. L. J. 647.

9. In the case of Mahomedan girl it must be shown that she acquiesced in or ratified the first marriage, to convict her of bigamy. 1936 S. 189, 19 C. 179 Ref.

13. Fresh complaint

Where a complaint under S. 494 was dismissed on the ground that the complainant failed to prove his alleged marriage with the accused, another complaint by him cannot be entertained. 1929 L. 544=11 L. L. J. 197=1929 Cr. C. 87.

14. Jurisdiction.

The offence of bigamy and its abetment is triable in a place where the second marriage or abetment took place and not in the District in which the woman is enticed away. 1924 L. 732=85 I. C. 365=26 Cr. L. J. 525.

Bigamy—(contd.)

15. Marriage ceremony—fraudulently gone through. S. 496, P. C.

1. S. 496 applies only when there is a show of marriage to attain some ulterior and fraudulent purpose. 10 C. W. N. 982.
2. Marriage by a Mahomedan in another village so as to deprive the Mahomedan Priest of his fees in not an offence. 1931 M. 247.
3. S. 496 applies where ceremony gone through does not constitute marriage and one of the parties is deceived by the other. *Rat. Un. Cr C. 77.*
4. Where dishonest or fraudulent intent is absent, it is no offence to go through a sham marriage. 16 K. L. R. 57=3 Cr. L. 488.

16. Marriage during iddat.

1. Marriage of a Mahomedan woman after apostacy of her first husband but before expiry of *iddat* is invalid. 39 C 409.
2. A Mahomedan woman marrying again during the life time of her husband who has divorced her but within the period of *iddat* is not guilty of bigamy. 9 Bom. L.R. 207, 39 C. 409, 43 P. R. 1882 Cr.

17. Marriage—Proof of.

1. A strict proof of marriage is necessary. 27 P. R. 1878 Cr., 5. C. 566, 5 A. 233, 18 P. R. 1881 Cr., 40 P. R. 1882 Cr., 5 P. R. 1894 Cr., 23 P. R. 1895 Cr
2. Mere statements of parties is insufficient to prove marriage 20 A. 166, 5 A. 233
3. Where a man and woman cohabited for a long time and are taken as wife and husband, it is sufficient to establish marriage among Jats in the Punjab. 146 P. L. R. 1917.
4. For other cases—*See* Enticing away married woman. S. 498, I. P. C.

18. Option of Puberty.

A fatherless Mahomedan girl was married by her mother during her minority. She married another on attaining puberty. Held, she was not guilty as she could repudiate the marriage in the exercise of her right of option of puberty. 19 C. 79, 1933 L. 88=34 Cr. L J 77

19. Release deed or Farghkhati.

1. Husband went to Africa and neglected to maintain his wife. She got *farghkhati* according to the custom, from the caste people and married again. Held, she was guilty 19 Bom. L R. 56.
2. A *farghkhati* granted by a caste punch who had no authority to grant it, is not effective to dissolve marriage. 39 I. C. 308=18 Cr. L. J 468.

20. Sentence.

1. Where the prosecution is out of vindictive motive, a light sentence is proper. 1926 N. 127=91 I. C. 250.
2. Where a woman has been left largely to her fate by her husband and has been living in adultery and marries her paramour, she is guilty only of technical offence and deserves only nominal punishment. 27 Cr. L. J. 74, 18 W. R. 9.
3. Accused's ignorance of law can be taken into consideration in extenuation of punishment. 1 L. 440=22 Cr. L. J. 1.

21. Validity of marriage.

1. If a marriage is performed in British India and has come before British Courts, its validity is to be determined by the law prevailing in British India. 26 M.L.J. 260.
2. Marriage contracted during period of *iddat* by a widow is not valid under Mahomedan Law. 43 P. R. 1882 Cr.
3. Marriage in *jhanjra* form is not valid by custom. 25 P R. 1888 Cr.
4. Marriage contracted by a minor widow without the consent of her relations is legal. 2 P. R. 1869 Cr.
5. Decision of Civil Court is not binding on Criminal Court. 18 P. R. 1881 Cr.
6. *Kreua* between a *Bania* and *Jhewri* is not recognized. 17 P. R. 1893 Cr.

Bigamy—(contd.)

7. A caste punch having no authority to grant *farghkhati* is not effective to dissolve marriage. *39 I. C. 308=18 Cr. L. J. 468.*

8. Marriage of a Mahomedan woman after apostacy of her first husband but before expiry of *iddat* is invalid. *39 C. 409.*

9. A marriage of a Hindu tainted by fraud is a voidable transaction but is binding unless set aside by competent court. 2 L. 288.

10. In the first marriage, the bride was given with the consent of her legal guardian in Jail the second marriage constituted bigamy. 1927 C. 480=28 Cr. L. J. 327.

11. For S 494 Anand marriage by a Hindu professing Sikhism is a valid marriage. 1925 L. 168=82 I. C. 277.

12. Accused knew the former marriage of the woman and argued that marriage with him was only invalid and not void under Mahomedan Law, there is no bigamy. Held, that accused was guilty. 110 I. C. 333=1928 L. 844 (1)=29 P. L. R. 533.

13. Remarriage in *Sagai* form during the life time of first husband though a valid defence, the custom must be strictly proved. 1925 P. 346=96 I. C. 115, Dist. 19 C 627.

14. It is not necessary for the validity of a marriage by a Khatri widow that all usual ceremonies which have to be performed on the first marriage of a Khatri girl, should be gone through and their subsequent living as husband and wife constitutes valid marriage. 1926 L. 31=90 I. C. 1056=26 P. L. R. 744.

15. A Hindu marriage is not invalidated for want of guardian's consent. 1924 L. 570 =*79 I C 451, 2 L. 288, 20 P. R 1916.*

16. The marriage of a Brahman with a Dharala woman of the Sudra caste is valid in Hindu Law. *32 Bom. L. R. 1348=1931 Bom. 89=130 I. C. 17.*

17 If there had been a marriage in fact, there would be presumption in favour of there being marriage in law. 43 C. 926, 98 I. C. 669, 48 A. 126

18 The marriage by *Chadar Andazi* ceremony with his maternal aunt by an Arora governed by Hindu Law cannot be legal 1928 L. 165=107 I. C. 98.

19. European lady convert to Hinduism married in accordance with Hindu rites, her marriage is valid. 52 M. 160, 1922 Bom 32.

20. An illegitimate son of Sonar father and a Sudra woman cannot marry a Bania girl. 48 A. 670, 28 A. 458.

21. Marriage between a Bengali Kayasth and a Dom (Sudra) is valid. 51 C. 488.

22. A Burmese Buddhist woman cannot marry a Shia unless converted to Islam. 117 I. C. 561=1929 R. 35.

23. A Hindu male contracted his first marriage with a Christian woman in England in Christian form, and subsequently married second time when his wife was alive, a Hindu female in Hindu form. Held, he was not guilty of bigamy. 1932 L. 116= 136 I. C. 262=33 P L R. 339.

24. Validity of marriage must be proved. 1934 A. 589.

25. A minor Mahomedan girl was given in marriage by a relation other than the father. Girl marrying another on attaining puberty amounts to repudiation. 1934 A. 589 =35 Cr. L. J. 1053.

22 Void marriage.

The word 'void' appearing in S. 494 is not used in the technical sense in which it is used in Mahomedan Law. Penal Code make no distinction between void and invalid marriage. 1931 L. 194=134 I. C. 589=32 Cr. L. J. 1210, 1928 L. 844.

BIRTH—CONCEALMENT OF. *See* Concealment of birth.

BITING BY DOG. *See* Hurt—3.

BLANDISHMENT. *See* Enticing away married woman—2.

BLANK SIGNED PAPER. *See* Forged document, using as genuine—3.

BLOOD POISONING. *See* Murder—25.

BLOOD.

1. Age of.

1. If the blood has not yet dried, it can be identified even by ordinary unskilled observer due to its peculiar colour, consistence and general appearance. If arterial it is bright red, if venous it is more purple changing to red. After about twenty-four hours or so it changes to reddish brown owing to the formation of methaemo-globin. The naked eye appearance coupled with the spectroscopic indication of a greater proportion of methaemoglobin to oxyhæmoglobin gives some idea of the age of the stain. *Lyon's Med. Jur. 1904, P. 102.*

2. After a period of five or six days, it is scarcely possible to determine even conjecturally the date of a stain from its appearance. *Taylor's Med. Jur. 1928, P. 502.*

2. Evidentiary value of—Stains.

1. A and B were named as assailant and subsequently C was substituted for B, the conviction of C is not proper although clothes of all the three were found blood stained. 14 P. W. R. 1913 Cr.

2. Blood stains on a Zamindar's clothing is valueless as evidence of guilt. 171 P. L. R. 1913, 67 P. L. R. 1913.

3. Discovery of blood stains on an Indian shirt is not material corroboration of approver's story. 1925 L. 526=86 I. C. 811.

4. Discovery of blood in convict's house and on his finger nails and his suspicious conduct on the day of murder furnish an adequate corroboration. 1921 L. 392= 4 L. L. J. 405.

5. Blood stains on accused and production of spear from a field by the approver are not sufficient corroboration. 1927 L. 78=28 P. L. R. 39=28 Cr. L. J. 193.

6. Blood stained garments found in a Zemindar's house does not necessarily connect him with murder. 1934 L. 171=1934 Cr. C. 349.

7. It is not contrary to experience that a murderer continues to wear blood stained articles. 1933 P. 100=34 Cr. L. J. 427.

8. Opinion of Imperial Serologist is entitled to great weight. 1933 O. 265.

9. The fact that accused's clothes are stained with the blood is insufficient. But failure of accused to give explanation makes such evidence corroborative evidence. 1933 N. 352=35 Cr. L. J. 213, 1925 L. 526 Appr.

10. The discovery of blood stain is insufficient for conviction Its value is very great when used to corroborate other evidence. 1936 L. 335=16 L. 995.

11. A number of small spots of human blood on a Dhoti and a Lungi belonging to the accused have slight probative value. 1936 R. 468.

12. A cloth was discovered from accused's house stained with blood. There was no proof that it was human blood. Held, no presumption could be made against him. 1934 O. 373=35 Cr. L. J. 1265, 1934 O. 385=35 Cr. L. J. 1154.

13. Blood stains on clothes of accused and extra judicial confession to the wife are insufficient to sustain a charge of murder. 1935 O. 33=36 Cr. L. J. 246.

3. Is it from Assailant or Victim ?

For this question it is important to note which side of garment has most blood on it. Thus an accused person who is also wounded, if he exhibits most blood on the outside of his clothes it would falsify his tale that the blood was his own. *Lyon's Med. Jur. 1904, P. 102. Taylor's Med. Jur. 1928, P. 505.*

4. On accused. *See*—2.

1. The presence of spots of blood on articles of clothing, knives, etc., taken from the person of those accused of murder, may be quite consistent with innocence. *Taylor's Med. Jur. 1928, Vol. I, Pp. 418-420.*

2. The coarse clothing worn by labourers may acquire blood spots from a variety of accidental circumstances which the accused may not be able to explain. *Ibid.*

3. When an attempt has been made to wash out the stains, or the accused admits that

Blood—(*contd.*)

they are there, and shows great anxiety to give some explanation of their presence, as that he assisted in killing a pig, rabbits etc., or that he was carrying game about him, there may be ground for suspicion.—*Ibid.*

4. Due allowance should always be made for the accidental presence of blood.—*Ibid.*

5. It is very common, but erroneous idea that no person can commit murder in which blood is effused without having his person or clothes more or less covered with blood .. . The flowing or spurting of blood upon his clothes will depend upon his position in relation to the deceased at the time of inflicting the wound, and this must always be a matter of pure speculation. *Ibid.*

5. On Zamindar's clothing. *See*—2.

6. On weapon. *See* Weapon—1.

7 Opinion of Serologist.

Opinion of Imperial Serologist is of great weight. 1933 O. 255.

8. Tests of blood.

A. Chemical

Cold water dissolves the stain, yielding a reddish solution, of which take one portion and heat It then coagulates and loses its red colour, while the coagulum is soluble in weak ammonia giving a dichroic solution, red by reflected light and green by transmitted. This reaction is due to *hoemogloom* being soluble *in cold* water, while its albuminous part is coagulated by heat, which precipitates also the *hoematin*. Of the original red solution take a few drops in a watch glass and add a drop of *strong nitric acid on the side of the watch glass a dirty-white ring* of coagulated allumen will form at the point of contact and the red colour is discharged. If the blood stain is old and cold water does not dissolve the stain, add a weak solution of ammonia Dragendroff recommends a cold saturated solution of borax to dissolve old stains *Lyon's Med. Jur. Ed. 1904, Pp. 93-94 , Taylor's Med. Jur. Ed. 1928 P 481*

B. Microscopical.

1. By Microscopical examination it will not be possible to say whether the blood is human or not, but merely whether it is mammalian or not. *Lyon's Med. Jur. 1904, P. 95.*

2. The Microscopical test of blood *consists in the discovery of two* substances. (*a*) The red corpuscles of blood, (*b*) Crystals or chloride of hæmin. *Taylor's Med Jur. 1928, P. 483*

C. Spectroscopical.

1. This is the most delicate and trustworthy *of all the tests for blood* stains, but it does not distinguish human from other vertebrate blood. *Lyon's Med. Jur. 1904, Pp 98 99.*

2. *If the red liquid owes its colour to recent* or oxidised blood, two dark *absorption* bands will be seen breaking the continuity of the coloured spectrum. *Taylor's Med. Jur. 1928, Vol. I, P. 489.*

3. In the course of an hour in warm weathers and after a day or two in cold weather, the blood in the tube undergoes a change. It loses its scarlet and acquires a purple colour. *Ibid.*

4. When a solution containing blood is exposed to the air for sometime it loses its blood-red colour and assumes a brownish tint. *Ibid.*

9. Test of human blood.

1. Once human blood has become dried, it cannot be so readily distinguished from the blood of many other animals of the mammalian class. An opinion on this point founded on the size of the corpuscles, is not reliable *Lyon's Med. Jur. 1904, Pp. 96—100.*

2. The antiserum for human blood causes a precipitate only with human blood and with no other blood, not even with that of monkeys (which latter gives only a faint cloudy reaction) provides a specific test for human blood of great delicacy, and one

Blood—(contd.)

which has been found applicable to blood stains which had been dried for three months *Ibid.*

3. Human blood is detected by presence of human blood filaria. *Ibid.*

4. Stains of menstrual blood on linen, etc., cannot be distinguished from stains of other blood. *Lyon's Med Jur. 1904, P. 102, Taylor's Med. Jur 1928, Pp. 493—500.*

10. Test of Mammalian and non-Mammalian blood.

To distinguish mammalian and non mammalian blood, the shape and size of the red blood corpuscles have to be noted. The *shape* of the disc in human blood and in all mammalia, except the camel tribe, is circular and biconcave In the camel tribe they are oval and biconcave In birds, reptiles and fishes, they are oval and nucleated. The size of the disc varies in the same animal and in average size in different animals. In man they range in diameter from 1/2800 to 1/4000 of an inch, averaging 1/3200. *Lyon's Med Jur 1904, P. 96.*

11. Whether it is of living or dead

The question whether the blood was shed during life is answered thus If there is evidence of spirting and of any small clot of fibrin, this is absolute proof that it came from a living and not a dead person. *Lyon's Med Jur. 1904, P. 102, Taylor's Med. Jur 1928, P 504.*

12. Whether Paternity can be proved from—.

By means of study of blood groups it cannot be proved that a given man is the father of a given child, but that it can be proved in certain cases that a given man could not possibly have been the father of a given child *Taylor's Med. Jur. 1928, P 507.*

BONA FIDE CLAIM *See* Theft—6, Mischief—1, Criminal Trespass—4

BONA FIDE PURCHASER OF STOLEN PROPERTY *See* Compensation for injury from an offence—3

BOND—FORFEITURE OF *See* Bail Bond—2

BOOKS. *See* Obscene books.

BOOKS OF ACCOUNTS *See* Falsification of account

BOUNDARIES *See* Land Mark, Mischief—2

BOYCOT.

1. **Of court by lawyers** *See* Legal Practitioners' Act Ss 13—6.
2. **Of English goods** *See* Sedition—2
3. **Threat to** *See* Criminal intimidation—16

BRANCHES OF TREE—CUTTING OFF. *See* Mischief—2.

BREACH OF PEACE. S. 107, Cr P C

1. Amount of security

Once a Magistrate has passed an order directing security for breach of peace in certain amount, he cannot increase that sum afterwards 51 I C 470

2 Appeal against *See* Appeal—6

3. Applicability and object.

1. The object is not to bring pressure on a party to give up his right over property. 25 C. 798.

2. The object of S. 107 is the prevention and not the punishment of offences 9 C. W. N 898, 11 C W. N. 223, 31 C 350

3. Where offences have been committed, there should be regular trial for those offences and no security proceedings 9 C W. N 898 6 P. 1 = 100 I C 967 = 1927 P. 126, 11 C. W. N. 472. *Cont.* 44 I. C. 38.

4. If complainant is out of possession and there is no danger of breach of peace unless he attempts to resume possession, his remedy lies under S. 145, Cr. P. C. or Civil Court only. 1923 N. 54 = 68 I. C. 407

Breach of peace—(contd.)

5. Security proceedings against persons discharged in a murder case are regular, when dispute was the same in both. 1922 O. 273, 41 M. 246 Dist.

6. Section applies to one who enforces a claim through an armed servant. 38 I. C. 758.

7. A Magistrate cannot keep S. 107 proceedings pending on the ground that it tends to preserve peace. 64 I. C. 137=22 Cr. L. J. 745.

8. The object of S. 107 is the security of Public Peace and not to help a party to recover possession of immovable property. 144 P. L. R. 1917.

4. Arbitration.

A Magistrate cannot delegate his power to make an order under S. *107* to *arbitrators.* 1931 P. 92=130 I. C. 810.

5. Bail.

1. A person arrested under Cl. (3) should be admitted to bail unless there are special circumstances. 32 C. 80, 1923 P. 527=74 I. C. 857, *Cont.* 36 M. 474.

2. A Magistrate cannot refuse bail to a person arrested under S. 114, Cr. P. C. 32 I. C. 669, 1933 R. 164 165.

6. Breach of bond for keeping peace.

1 A bond to keep peace will be forfeited only by commission of offences likely to cause breach of peace. A conviction for theft, wrongful confinement, extortion, abduction or attempt to poison will not entail forfeiture of bond. 6 P. R. 1906, 22 P. R. 1914, 66 I. C. 179.

2. It *is immaterial whether accused committed the act* with his own hands or instigated it 2 M 169, 11 W. R 52.

3. Filing of civil suit is not a wrongful act entailing forfeiture of bond. 1 L. 310.

7. Civil dispute going on—.

If a civil dispute is going on for sometime and there is no likelihood of breach of peace, proceedings under S. 107 are uncalled for. In any case only one party cannot be bound down. 1934 Pesh. 21=35 Cr. L J. 963.

8. Concurrent Proceeding under S. 107 and S. 145, Cr. P. C.

1. Proceedings under S. 107 are bad when injunction is issued under S. 144 with regard to the possession of land. 44 I. C. 591.

2. There can be concurrent proceedings under S. 107 and S. 145. 37 I. C. 481, 39 C. 469, 36 M 315, 74 I. C. 719 Dist., 32 C. 966, 34 A. 449, 26 M. 471, 39 C. 150, 24 C. W. N. 1075.

3. It is very undesirable to continue proceedings under S. 107 and S. 145, and to act against both parties under S. 107. 27 I. C. 907.

4. When civil suit is pending, proceedings under S. 145 should not be started. 59 I. C. 643.

9. Consent of accused to be bound down.

1. There must be evidence on record to show that there is likelihood of the breach of peace. Mere consent of accused to be bound down is not sufficient. The order passed *on mere* consent is illegl. *54 I. C. 784,* 54 I. C. 411, 24 P. R. *1915, 27* P. R. 1917, 65 I. C. 639 (2)=1922 M. 349, 57 I. C. 672, 48 I. C. 985, 81 I. C. 198, 23 Cr. L. J. 175, *Cont.* 1927 A. 579=102 I. C. 897, 46 A. 109.

2. Consent of the party to be bound down does not debar him from applying in revision. 54 I. C. 411, 35 C. 674, 12 A. L. J. 1262.

3. Accused said that he was poor man and agreed to be bound down. Held, it was insufficient, where no evidence was recorded. 35 C. 674.

4. The question put to the accused was "Are you willing to execute the bond or want further *inquiry.*" They *replied that* they would execute the bond. *Held, it* was *not* sufficient for an order under S. 107. 34 M. 139.

5. It is illegal to place a person on security merely on his consent. 1925 L. 135=25 Cr. L. J. 710, 24 P. R. *1915.* 27 P. R. 1917.

Breach of peace—(contd)

6 The Magistrate is bound to inquire whether the information which prompted him to issue notice, is correct If the accused says it is correct or is prepared to break the peace it amounts to plea of guilty and Magistrate can make the order absolute 1935 Pesh 116=36 Cr L J 1212=157 I C 755 1928 A 270=50 A 599=30 Cr L J 6 Rel on 24 P R 1915 Cr, 27 P R 1917 Cr, 1925 L 135=25 Cr L J 710 Diss from

7 In order that a mere consent to execute bond may be a plea of guilty, the plea should be explicit detailed, embodying that accused admits all the facts mentioned in the notice 1935 Pesh 116=36 Cr L J 1212=157 I C 755, 50 A 599 Foll 24 P R 1915 27 P R 1917, 1925 L 135 Diss from

10 Dispute about land

1 The fact that there was dispute about land does not oust the Magistrate s jurisdiction under S 107 39 C 150 27 I C 835 65 I C 555 60 I C 336 47 I C 65

2 If complainant is out of possession and there is no danger of breach of peace and unless he attempts to resume possession his only remedy is under S 145, Cr P C or Civil Court and not under S 107 1923 N 54=68 I C 407

3 S 107 applies to a case of undisputed possession When possession is in dispute S 145 should be invoked 62 I C 590 1922 P 435 25 C 798 133 I C 161

4 In case of dispute about land it is not proper to proceed against one party under S 107 1931 P 347=131 I C 161=32 Cr L J 1014

11 Essentials and Evidence

1 Mere bad feelings between two sections of a population is not sufficient to bind them 126 P L R 1911=43 P W R 1911 Cr

2 Magistrate must have some tangible evidence that a wrongful act is contemplated which if committed is likely to cause breach of peace 56 I C 437

3 An order under S 107 is proper if there is a probability of public peace being disturbed 35 I C 173 12 Cr L J 493

4 Proceedings under S 107 are not bad merely because there was no overt act for six months before they began 44 I C 122

5 Security cannot be demanded from a person inducing others to commit breach of peace 4 P R 1912=125 P L R 1912

6 Uttering Amen aloud in mosque at the time of worship is not sufficient to bind down a person under S 107 62 I C 830

7 One party should not be bound down to give advantage to the other in a dispute of civil nature 49 I C 642 1927 P 781=102 I C 781 59 I C 374

8 Order on extra judicial knowledge is bad 36 I C 164 56 I C 671

9 An order under S 107 without any enquiry is bad 37 A 30 26 I C 153 Dist 46 A 109 1924 A 269=81 I C 238 1927 A 579=102 I C 89 92 I C 882

10 Where there is no evidence on the record to show that petitioner is likely to commit breach of peace order under S 107 will be set aside on revision 195 P L R 1912

11 The Court can consider previous relations threats of parties and antecedent and existing circumstances 9 I C 594

12 Order under S 107 cannot be based on hearsay evidence 56 I C 844

13 An order based upon vague evidence of generalities is bad 3 L L J 450 1922 P 209 C A 25 41 M 246

14 If dispute about claim to weigh grain in market is likely to cause breach of peace, S 107 would apply 1922 A 430 (1)=68 I C 836

15 Where a rival cattle market was intended action under S 107 is illegal as they were doing a legal thing in their own land 44 I C 965

16. When object is lawful the order under S 107 is improper 37 A 33

17 Tenants who were merely boycotting the Zamindar s servant cannot be bound down 19 I C 334

Breach of peace—(*contd.*)

18. Blowing conch in a religious place is lawful, but in any other place with a view to wound the religious feelings of Mahomedans is an act likely to provoke breach of peace. 33 A. 775.

19. Persons instigating the infliction of public thrashing must be bound down. 1922 N. 180=67 I. C. 346, 64 P. R. 1887.

20. Where wrongful acts are committed or threatened by a number of individuals, all are liable under S 107. 59 I. C. 374.

21. Wrongful act means act forbidden by law. 56 I. C. 437.

22. Criminal courts cannot reopen the question of possession when given by Civil Court to auction purchaser. 1922 P. 197 (2)=66 I. C. 817.

23. If the person is doing a lawful act in lawful manner the fact that it injures the susceptibilities of persons of different faith is not sufficient under S 107. 1932 L 101.

24. Accused was arrested for having raised objectionable shouts in an excited crowd, collected in connection with picketing and there was nothing to show that breach of peace was likely Held, that mere mental excitement is not sufficient under S 107. 1931 L. 184=131 I C 205=32 Cr. L. J 693 (2), 21 P. R. 1888 Cr.

25. A proceeding under S 107 should contain definite particulars and not vague recitals borrowed from the words of the section 1931 P. 347, 10 P. L. T. 639

26 Holding on one s land *Hat* on the same day as rival Hat does not fall under S. 107, Cr P C , unless there is wrongful act 1934 P. 104=35 Cr. L J. 1057=150 I. C. 118, 11 C W N. 79=4 Cr L J 433, 4 C W. N. 226 and 13 Cr. L. J. 511 and 1922 C. 569 Ref.

27. Competition in trade unless illegal methods are adopted is not a wrongful act. 1934 P 104=35 Cr L. J 1057.

28 S 107 does not apply when a person attempts to take peaceful possession. 1934 O 179 *Case law reviewed.*

29. Threats of Sahukars to get the Zumindars imprisoned, as they would not pay their debts is not sufficient for S. 107 1933 L. 36=33 Cr. L. J. 915.

30 S 107 is not to be used to prevent people from ventilating their legitimate grievances to the authorities or to debar them from collecting their debts or to prevent them from criticising the acts of public servant or to stop a propaganda which is not likely to lead to breach of peace 1932 L 101, 7 L. 482=1926 L. 683, 32 A. 571, 1929 L 138 and 1931 L. 191=12 L 457 Ref.

31. The information must be of clear and definite kind directly affecting the accused. It should disclose tangible facts and details, so that he may come prepared to meet 1922 P. 97, 6 A. 26, 1921 P. 440 and not only a vague recital from the section. 1929 P. 67.

32 It must be proved by definite evidence of *facts* that a person is likely to do any acts specified therein. 1921 L 183-184, 1926 L. 689, 1925 L. 135, 12 L. 457, 1920 N. 203.

33. Mere opinion of witnesses that accused is likely to do such acts is not sufficient. 1926 L. 689.

34. Mere use of threat of violence to the opposite party or having committed diverse acts of oppression is not sufficient. 1922 P. 209, 7 C. W. N. 32, *Cont.* 31 C. 350 *See* 1929 N. 328, 12 Cr. L. J 104.

35. Mere existence of ill-will or enmity between parties is no ground. 1928 L. 243, 1922 C. 97, 1 Cr. L. J. 696.

36. The fact that there has been dispute and litigation between the parties, 17 Cr. L J. 454, or they have been bringing false cases against each other or that they took different sides in Municipal election is not sufficient under S. 107. 4 Cr. L. J. 429, 1928 L. 863, 1922 C. 97.

37. All persons interested in the dispute cannot be bound down indiscriminately. Case against *each* person must be proved. 1922 C. 97, 9 A. 452, 38 A. 463, 49 I. C. 642.

38. Where a civil dispute had been going on for sometimes between the parties and there

Breach of peace—(contd.)

was no likelihood of breach of peace, security proceedings are uncalled for. 1934 Pesh. 21.

39. Proceedings can be drawn up against persons who are likely to be abettors. 6 A. 26, 38 I. C. 758, 11 Cr. L. J. 719, 1922 N. 80.

40. In case of civil dispute, only one party cannot be bound down. 1934 Pesh. 21.

41. Where wrongful act is threatened to be committed by a number of persons, all are liable. 59 I. C. 374=1920 P. 687.

42. A person cannot be bound over merely because his agents, servants or partisans are likely to break the peace. 10 C. L. R. 430, 11 Cr L. J. 719, 1 Cr. L. J. 696.

43. Mere fact that accused and others had quarrelled among themselves and assaulted each other is not enough. 1884 A. W. N. 54.

44. Accused instigafed the throwing of stone at a theatre. Held, he should be prosecuted. But presumption as to future conduct cannot always be drawn (1897.—1901) 1 U. B. R. 16.

45. An order under S. 107 should not be made when all fears of breach of peace is over when the order is to be made. 7 Cr. L J 232, 1927 P 231.

46. Mere fact that a person was likely to commit breach of peace in the past is no ground. 1927 P. 231, 26 A. 190 (1876) 2 Weir 49, 1884 A. W. N. 54.

47. Court should také into consideration the utterance of threats by a party on different occasions, as well as the previous relations of parties and antecedents and other existing circumstances. 12 Cr. L. J. 104, 31 C. 350. *See* 1929 N. 328.

48. A *rightful* act cannot be made the subject of proceedings under S. 107 although it may provoke a breach of peace. S. 107 is to be used to protect persons exercising lawful rights and not to interfere with them. 1932 L. 101, 1934 O. 179, 1934 P. 105, 34 C. 935, 14 B. 25, 7 A. 461, 1926 L. 695, 39 I. C. 480, 25 I C. 989.

49. Wrongful acts mean act forbidden by law. 1920 P. 550, 1928 C. 438, 35 A. 775, 1934 O. 179, 37 A. 33.

50. *Bona fide* exercise of the right to go in procession or blowing of a conch in connection with a ceremonial act does not fall under S. 107. 37 A. 33, 7 Cr. L. J. 504, 13 Cr. L. J. 170.

12. Fresh Proceedings.

1. Fresh proceedings are not competent on same facts which resulted in the discharge. 41 M. 244=31 I. C. 990.

2. A court passing an order of discharge cannot re open the same case but there is no bar to second case. 1923 A. 332 (2)=71 I. C. 696=24 Cr. L. J. 232.

13. Joint trial.

1. Joint trial of two hostile factions is bad. 33 I. C. 645.

2. There must be definite evidence in case of every man charged under S. 107. 38 A. 468=35 I. C. 832.

3. It is highly unfair to proceed against persons jointly unless it is quite clear that they form a gang. The case of each person has to be considered separately and this is not effectual if trial is joint. 1924 A. 195=81 I. C. 600.

4. A joint trial of two persons not being contending parties, is legal. 1923 A. 476.

14. Jurisdiction.

1. Temporary residence is sufficient to give jurisdiction to Magistrate for acting under the section. 59 I. C. 413, 23 B. 32, 39 A. 139.

2. A casual visitor can be bound down. 36 M. 96, 24 C. 344, 39, A. 139, 98 I. C. 109=1927 Sind 59, 49 I. C. 165, 43 C. 153, 35 I. C. 495. *Cont.* 27 C. 993 and 12 P. R. 1901.

3. Persons living outside the limit cannot be bound down. 6 A. 26 (F. B.), 14 A. 49, 23 I. C. 32, 11 C. 737, 12 C. 133, 1922 C. 97=71 I. C. 694, 59 I. C. 413, 64 I. C. 666, 1922 Pat. 209=77 I. C. 417, 26 M. 592.

Breach of peace—(contd.)

4. A person who left the jurisdiction of Magistrate before issue of notice cannot be bound down. 14 P. R. 1889, 6 A. 26 F. B. *See* 1922 A. 337 (1)=67 I. C. 348.

5. A Magistrate cannot order a man to leave a village under threat of prosecution. L. R. 2 A. (Cr.) 165.

6. It is only the Chief Presidency Magistrate or District Magistrate who can take proceedings when either the person informed against (who left the place) or the place where breach of peace is apprehended is not within Magistrate's jurisdiction. 68 I. C. 407=1923 Nag. 54.

7. Magistrate cannot pass orders under S. 107 when proceedings were instituted under S. 145. 36 I. C. 495.

8. A first class Magistrate at Headquarters has jurisdiction over entire district, unless restricted to particular local area. 29 C. 389, 37 C. 91, 63 I. C. 873.

9. A Subordinate Magistrate who has no local jurisdiction can try a case sent by a superior Court before whom it was instituted. 31 C. 350 (354) 24 A. 151, 29 C. 389, 37 A. 20. *Cont.* 41 M. 246.

10. But the case cannot be transferred before legally initiated. 41 M. 246, 47 I. C 277, 1923 M. 188=69 I. C. 433, 1922 P. 209=77 I C. 417, 1925 M. 189.

11. Jurisdiction under Chapter XII (S. 145) is no bar to proceedings under S. 107. 39 C. 150 (F. B.), 32 C. 966, 34 A. 449, 28 A. 406, 26 M. 471, 24 M. 364, *Cont.* 35 C. 117, 25 A. 537, 25 C. 559.

12. A Magistrate has jurisdiction to carry on proceedings started by his predecessor. 4 C. L. 452, 29 C. 389.

13. It cannot be said that a person is within the local limits of the Magistrate's jurisdiction only because he is present in Court, when the Magistrate draws up proceedings under S. 112, having appeared in obedience to summons issued by a Magistrate. 136 I. C 72=1932 A. 162=33 Cr. L. J. 230=1932 A. L. J. 211.

14 A sub divisional officer has no jurisdiction to start proceedings under S. 107 against a person residing outside his jurisdiction. 1935 P. 131 (1)=154 I. C. 873, 6 A. 26, 11 C. 737, 12 C. 133 and 23 B. 32 Ref.

15. If the person proceeded against and the place of apprehended breach are within the jurisdiction, the proceedings are legal. 1934 M. 255=35 Cr. L. J. 626.

15. Master's Liability.

1. Where a dispute exists between two Zamindars, their servants cannot be bound down only because they are interested in their masters. 24 Cr. L. J. 230.

2. Where a Panda sends his armed servants to procure pilgrims and this led to contest with rival Pandas, action under S. 107 is justified. 1 P. L. J, 361, 38 I. C. 758.

3 A non-resident Zamindar cannot be bound down, merely because his local agents are committing acts likely to cause breach of peace. 10 C. L. R. 430.

16. Nature of Proceedings.

1. A person proceeded against under S. 107 is not an accused person. 6 P. R. 1911 Cr., 149 P. L. R. 1915.

2. S. 350 (1) Proviso (*a*) applis to a case under S. 107. 43 M. 511=56 I. C. 50.

3. Order requiring security is not a conviction. 1921 P. 74=59 I. C. 905.

4. Compensation under S. 250, cannot be awarded to the person against whom proceedings have been dropped. 25 B. 48, 16 P. R. 1893, 33 P. R. 1902, 36 A. 382.

5. The proceedings under S. 107 are preventive and not punitive. 1932 L. 101, 12 L. 457.

6. An application under S. 107 is not a complaint. 53 A. 148= 1931 A. 53.

17. Notice. *See* Security for good behaviour. S. 110., Cr. P. C.

18. Preliminary inquiry.

1. There is no provision for making preliminary inquiry under Chapter VIII, Cr. P. C., by the Police. The case can be started on credible information from a Police officer or private person. 1932 B. 196=34 Bom. L. R. 258=33 Cr. L. J. 797.

2. In case of preliminary investigation, the accused had the right to obtain copies of statements of witnesses. 34 Bom. L. R. 258=1932 B. 195=33 Cr. L. J. 797.

19. Procedure.

1. In case of landed proprietors, their personal security is sufficient. If both sides are dangerous they should be bound down. 63 I. C. 829.
2. Omission to set forth substance of information in an order under S. 112 is mere irregularity. 64 I. C. 666
3. A case under S. 107 is triable as summons case and the deposition must be read over. 43 I. C. 585=(1918) P. 13.
4. District Magistrate cannot order re-enquiry in a case under S. 107 or 145, when dismissed by a Magistrate. 59 I. C. 328, 24 C. 391.
5. Proceedings under S. 107 can be transferred by the High Court. 41 C. 719.
6. Proceedings initiated by District Magistrate can be transferred by him to some other Magistrate 45 I. C. 160, 31 C. 150, *Cont.* 41 M. 244, 13 C. W. N. 80.
7. But cannot transfer it to a 2nd Class Magistrate 37 A. 20.
8. Proceedings under S 107 transferred to some other District, it is the District Magistrate of the latter District that can act under S. 125. 50 I. C. 817=23 C. W. N. 958.
9. Possession of disputed property cannot be taken under S 107. 1934 N. 142.

20. Revision.

1. When the Magistrate has discharged the accused under S 107, Cr P. C., Sessions Judge has no jurisdiction to set aside an order of discharge and direct further inquiry. He can only report the case to High Court under S 438, Cr. P. C. 53 A. 148=1931 A. 53=32 Cr. L. J. 570.
2. In an appeal against an order under S. 107, *denovo* trial cannot be ordered. 1934 M. 202 (1)=34 Cr. L J. 947.

21. When opposite party does legal thing.

When a party creates a disturbance in consequence of his opponent doing a legal thing and there is some difficulty in finding as to which party is at fault, the party appearing to be in default should be restrained under S 107. Promulgation of an order under S. 144 will leave the dispute likely to recur in some aggravated form after some time 1935 P. 461.

BREACH OF TRUST. Ss. 405 to 409, I. P. C.

1. Abetment.

1. When an offence of embezzlement was completed a subsequent help to conceal it is no abetment. 1928 L. 382=112 I. C. 850.
2. A treasurer put in his *gomashta* D. in his place with the consent of the bank and continued to receive pay from the bank. D misappropriated certain monies and absconded. The treasurer also received one of those sum. Held, that he was guilty of abetment of the act of his servant. 30 P. R. 1868 Cr.
3. Where the accused to whom a thing was not entrusted, was present and helped the other accused in pledging a pledged property, knowing that other person had no right to pledge it, was guilty of abetment of criminal breach of trust. 23 M. L. J. 722=12. M.L. T. 203=15 I. C. 85.

2. Accounts. *See*—41.

1. Mere wrong account and wrong entry do not by themselves prove criminal breach of trust. 1930 O. 324=126 I. C. 684=32 Cr. L. J. 1081.
2. Appropriation of money drawn from Bank for payment of a particular bill, towards payment of another bill due to the same person is at the most violation of account rules and is no offence. 1930 O. 324=31 Cr. L. J. 1081.

3. Acts constituting trust—"Entrustment."

1. A trust is an obligation annexed to the ownership of property and rising out of confidence reposed in and accepted by the owner or declared and accepted by him

for the benefit of another or of another and the owner. S. 3, Indian Trust Act, II of 1882.

2. It includes persons whose position is analogous to those of trustees, *e. g.*, Partners. *21 W. R. 59, 35 C. 1108, 10 P. R. 1903 Cr.*, 1920 *M. W. N. 346.*

3. Complainant left his flock of sheep with accused to prevent their attachment in execution, some of which were misappropriated. Held, that illegality of trust offered no defence to this charge. 1 Weir 463.

4. Money paid to accused to purchase paddy to be sold at the market rate on the date of delivery and misappropriated by accused is not a trust but was only an advance 17 I. C. 824, 19 I. C. 145, 23 I. C. 492, 24 I. C. 332.

5. Where the relation between the parties are that of banker and customer, there is no trust 32 P. R 1901 Cr., 95 P. R. 1885.

6. But where Banker enters into a contract of special nature to keep a certain sum intact and distinct from his capital in trade, it is trust, *e. g.*, defalcation of Government money by Battery Shroff. 19 P. R. 1908 Cr.

7. A Booking Clerk recovered in excess of legal charge but did not credit to Railway. Held, not guilty as there was no trust. 1923 L. 295 (1)=24 Cr. L. J. 879.

8. Complainant paid off a debt due to accused on condition that accused will return the bond, who subsequently denied payment, held, that there was no trust. 49 I. C. 343 =22 C. W. N. 1005.

9. Where goods were delivered to person for sale and accepted, there is no question of trust and the denial of the receipt of goods does not make him guilty under S. 406. 1924 M 516=72 I. C. 172.

10 Prosecution must prove that a trust had been created and accused violated trust. 1923 L 321=85 I C 839

11. In a case of theft the original taking is without honesty and without the consent of the owner, but in a criminal breach of trust the original taking is with honesty and with the consent of the owner, while in cheating the taking is dishonest but with the consent of the owner and in criminal misappropriation the taking is honest but without the consent of the owner. 106 I. C. 678.

12 If prosecution failed to prove how accused came by that money, it cannot be said that he was entrusted with money 65 I. C. 1004=25 C. W. N. 838.

13. A person taking loan is not entrusted with property. 32 P. R. 1901 Cr.

14. Goods were entrusted to the accused to sell and obtain money. Held, that although accused did not receive money from the complainant, yet he was "entrusted with" it within the meaning of S. 405. 1928 B. 521=114 I. C. 399.

15. Money advanced to broker for supply of articles is a trust. 15 Cr. L. J. 452.

16. Where money was paid for a particular purpose to a person, who on the purpose failing appropriated the sum towards a debt due to him, no offence is committed. 1926 A. 298=92 I. C. 895.

17. This section does not apply to misappropriation of sale proceeds of a property entrusted to an auctioneer. 41 C. 844. *See 1932 Sind 169.*

18. Property means moveable property. *23 C. 372, 1930 R. 158=8 R. 13, 1925 A. 673.*

19. A Municipal Water Works Inspector has dominion over the water belonging to Municipality, and as such if he misappropriates water for his own use is guilty. 35 A. 361.

20. Where money was advanced in pursuance of a contract, and no entrustment of a fiduciary form, breach of contract would be of civil nature. 96 I. C. 501.

21. Taking jewellery on approval on understanding that accused can retain them if he pays full value, the subsequent disposing it off without payment is a criminal breach of trust. 1924 C. 816=51 C. 796=82 I. C. 163.

22. It is not necessary that accused should have taken some tangible property, say cash. It is sufficient if amount is transferred from the account of another to his. 1926 L. 385=93 I. C. 599=27 Cr. L. J. 1383.

Breach of trust—(contd.)

23. Accused took advance from a firm on pronote to buy only paddy and supply it to the firm and the value to be credited to the loan held that it was a loan and not a trust. 14 I. C. 653.

24. Commission paid to a Vice-President for ordering goods for Municipality is not a trust. 1926 R. 171=4 R. 128=97 I. C. 64=27 Cr. L. J. 1088.

25. Trust may not be in furtherance of lawful object, *e. g.*, stake holder. 1927 N. 225=101 I. C. 890=28 Cr. L. J. 506.

26. The word "entrusted" is used in its legal and not figurative sense and means that the money remains in the possession and control of accused as a bailee to be restored to the prosecutor or applied in accordance with his instructions. 1928 Sind 106=108 I. C. 663, 1936 M. 353=37 Cr. L. J. 637.

27. The section does not apply when right to property is disputed and claimed by third person. 29 C. 362.

28. Entrustment of goods creates trust on sale proceeds as well. 1932 Sind 169=34 Cr. L. J. 51=140 I. C. 647. *See* 41 C. 844.

29. It is immaterial how accused became entrusted with the property, *viz.*, whether by cheating or by consent. 1936 M. 353=37 Cr. L. J 637 (*case law discussed*). 1923 M. 597, 13 Cr. L. J. 15 Foll. 1936 M. 1=37 Cr. L. J. 142.

30. "Entrustment" is handing over possession for some purpose without any proprietary right. 1936 M. 1=37 Cr. L. J. 142.

31. When goods or property is delivered under trust, the sale proceeds of property entrusted are also subject of the trust. 1932 Sind 169, 1928 B. 521 and 1928 M. 597 appr. 41 C. 844, 1927 R. 140, 1928 Sind 106 and 15 Cr. L. J 452 Diss.

32. "Entrusted" is not used in the technical sense of trust. 1930 O. 401.

4. Breach of contract or trust.

1. Where a public servant being entrusted with money for buildings, obtains material gratis and appropriates sums as price of the material, he is guilty 1925 P. 414=4 P. 488, 86 I. C. 459.

2. If a person pledges the property pledged to him, he is guilty. 13 Burma L R. 286 but not in the absence of contract. 71 I. C. 58=1922 O 280.

3. Retention of money by Pleader is not in every case a criminal breach of trust, retaining money for free which is time barred is no offence. 1924 N. 47.

4. Misappropriation may be effected by mere mental act to be proved by some overt act 36 P. R 1889.

5. Refusal to allow removal of a box by the camplainant left with the accused unless a debt due to the latter was cleared up is no offence 17 M. L. J. 413.

6. Disposing of article purchased on hire purchase system without paying the last instalment is criminal breach of trust 45 A. 588, 17 B. L. R. 670, 24 I. C. 161, 30 I. C. 649 But not after the decree of Civil Court. 40 I. C. 728.

7. Where the agreement in question was by way of wager, conviction under S. 406 in-violation of an express or implied legal contract' is not maintainable. 1927 M. 425=100 I. C. 989. *See* 1927 N. 225=101 I. C. 890=28 Cr. L. J. 506.

8. But trust may not be lawful. A stake holder cannot say that there was no legal contract to pay the stakes over to the winner. 1927 N. 225=101 I. C. 890=28 Cr. L. J. 506.

9. Mere breach of contract is not criminal. 6 L. B. L. 62, 7 L. B. R. 16.

10. Where in a scheme suit, accused who was accountable to certain sum of money was ordered to pay the amount, he is not guilty of the breach of trust. 1926 M. 535.

11. If there is a contract that accused is to render account at a particular place and fails to do so, he is guilty. 1925 C. 613=85 I. C. 213=26 Cr. L. J. 725.

12. When a person is bound to account for monoy received and does not, he is guilty. (1909) U. B. R. P. C. 21.

Breach of trust—(contd.)

13. Where accused was entrusted silver to make silver ornaments and introduced copper, he was guilty under S. 406. 4 B. H. C. 16.

14. Deterioration of turban by use, being not a loss of property to the owner, constituted no offence. 10 Bur. L. R. 249.

15. Criminal breach of trust with regard to one's own property can be committed. 72 I, C. 612=1923 M. 597. *Cont.* 24 I. C. 332.

16. Where a Sapurddar was entrusted with property attached in execution, did not produce it at the time of sale and evaded notice was not guilty under S. 406. 47 I. C. 875.

17. Mere failure to account is not sufficient. L. R. 2 A. (Cr.) 50, 1926 M. 535.

18. A person *obtaining property for one purpose*, and using it for another, is guilty under S. 406. 51 I C. 173 *Cont.* 23 I. C. 492.

19. Prosecution is not bound to prove *mode of misappropriation.* 16 Cr. L. J. 665.

20. A broker appropriating a part of money entrusted to him for *payment to a firm, in lieu of brokerage, is not guilty.* 38 I. C. 997.

21. Tenant paid Rs 90 as rent, and the landlord appropriated Rs. *25 for abwab.* No *offence in committed.* 15 I. C. 656.

22. When Agent is entitled to adjust collections towards remuneration *and no period is fixed for deposit of balance in treasury, mere* retention is no criminal breach of trust. 56 I. C. 669

23. A *person receiving* a *sum of money and not paying* it to the person authorized to receive them for over a year, must be presumed to have converted it to his own use. 1923 L. 566, 40 I. C. 303.

24. If the accused has some claim to the property held by him, is not guilty, even if the claim is not sustainable in law, unless it is a pretence. 28 C. W. N. 831.

25. Money paid for a particular purpose and on purpose failing, accused appropriated it towards a debt due to him, there is no offence. 1926 A. 298=27 Cr. L. J. 383.

26. Mere delay in making remittance to Head Office is not conversion to one's use. 106 I C 862.

27. Goods were entrusted to accused under a contract to sell and held money for owner but failed to account. Held guilty. 114 I C. 399=1928 B 521, 41 C. 844.

28. Property entrusted for a particular purpose, is converted to one's own use. Offence under S. 406 is clear. 1928 O. 277=112 I. C. 103=29 Cr. L. J. 983.

29. *Bona fide* return of property to the brother of depositor does not come under S. 406. 1929 Sind 119=117 I. C. 157=30 Cr. L. J. 735.

30. Accused sold jewellery taken on approval without paying the sum due on it to the firm, is guilty under S. 406. 51 C. 796=1924 C 816=25 Cr. L. J. 1235.

31. The sum misappropriated must be definite sum. *1925 C 26=82* I. C. 369.

32. Mere retention of money or failure to return does not raise a presumption of dishonest *misappropriation. 1930 P. 209, 1930 O. 321, 1930 M. 507.*

33. A person was entrusted with the *management of property and get 3/5 for himself and to spend 2/5 for charities. If it can be proved that he converted to his own use* any portion of 2/5 he is guilty. 126 I. C. 395=1930 O. 401.

34. Accused setting up a claim that the property alleged to be entrusted to them was their own, are guilty under S. 406. 29 I. C. 671=16 Cr. L. J. 543.

35. Transfer of certain amount from another's account to one's own constitutes the offence. 1926 L. 385=27 Cr. L. J. 1383=98 I. C. 599.

36. Mere breach of contract is not synonymous with criminal breach of trust. The property must be held in trust. 17 I. C. 824.=13 Cr. L. J. 888.

37. Accused got money on condition that he would buy a car, sell it and return money with half profit. But he used it on other purpose. He is guilty under S. 406. 23 I. C. 492=15 Cr. L. J. 284.

38. If a person obtains property for one purpose and uses it for another, he is guilty under S. 406. 51 I. C. 173=20 Cr. L. J. 413.

Breach of trust—(contd.)

5. Burden of Proof.

1. Where a property is entrusted to a servant, it is the duty of the servant to give a true account of what he does with it and if he cannot give account reasonable inference is that he mis-appropriated it. 2 R. 478=84 I. C. 331=1925 R. 47.
2. The accused may not be able to prove that he got cows from complainant's son on a letter or by sale, yet the burden of proof of trust is on the prosecution. 1923 L. 321=26 Cr. L. J. 615=85 I. C. 839.
3. Burden of proving the manner of misappropriation is not on the prosecution. 30 I. C. 649.
4. The onus is on prosecution to prove that money was paid in trust and that it was not so applied. 1928 L. 382=112 I. C. 850=30 Cr. L. J. 18, 1933 C. 800.
5. The initial burden is on prosecution to prove receipt of amounts by accused and then it is for accused to show that he has not converted it for his own use. 1927 C. 409 =101 I. C. 597=45 C. L. J. 207=28 Cr. L. J 469.
6. Accused admitting receipt of money but pleading payment to proper persons, the onus of proving misappropriation or non payment is on prosecution. 1934 Sind 22. 1928 L. 382 and Rat. Un. Cr. C. 872. Rel. on.
7. Accused's failure to prove the case set up by him relieves prosecution of its duty to prove entrustment. 1923 L. 321=26 Cr. L. J 615
8. Prosecution is bound to prove how accused got money. 65 I. C. 1004.
9. Entrustment and misappropriation of definite sum must be proved by prosecution. 42 A. 522.

6. By accountant.

Accused an accountant in the Municipality, put up a cheque drawn to himself for the Chairman's endorsement who was ignorant of English and persuaded him that they were for contractors, and drew money from the sub treasury. Held, he was not guilty under S. 409 as he was not entrusted with the Municipal funds. 1931 M. 439 =131 I. C. 461=32 Cr. L J. 756=1931 M. W N. 399.

7. By Agent.

1. Where agent was entitled to deduct his remuneration from collections and no period was fixed for payment into treasury, no offence is committed. 56 I C 669.
2. A person making purchases for a firm on commission is a servant within the meaning of S. 408. 51 I. C. 673.
3. The agent of the landlord was incharge of Court cases and had to deposit land revenue in treasury. He misappropriated part of money sent to him for paying land revenue. He is guilty under S. 409 22 C. 313
4. A manager of a temple is an agent of the Deity and as such punishable under S. 409 for breach of trust of temple property. 1 Weir 432.
5. Accused entrusted with jewellery for sale, pledged it to a money-lender. The Court on conviction of the accused, cannot order the return of the jewellry to the complainant. 65 I. C. 1000, 1932 R. 68 (1)=138 I. C. 831.
6. Where a charge of criminal breach of trust is made against an agent of a trader, with general authority to expend the monies, it is in rare cases in which it is sufficient to charge him for net balance. It is a civil matter. 42 A. 522.
7. If there is running account between the principal and agent and no final settlement has taken place, a prosecution for general deficit does not lie, though it can be with regard to a particular, specified and certain sum. 9 Mys L. J. 385, 29 Cr. L. J. 407 Dist.
8. If it be the duty of agent to keep the collections he makes for his master separately from his own moneys, expending thereout moneys on his master's behalf, and handing over balance, he is guilty if he converts money to his own use. And where a landowner permits the agent to mix collections with his own moneys and if he applies money to his own use and falsifies account, the agent is criminally liable. 3 N. W. P. H. C. R. 30.

Breach of trust—(contd.)

9. Entrusting in the capacity of agent is necessary. But accused need not be agent when committing breach of trust. 1936 P. 350=15 P. 108.

10. Where agent is authorized to lend master's money, he cannot lend it to himself without master's permission. 1933 M. 799 (1).

8. By Auctioneer.

An auctioneer is not liable under S. 406 merely because he does not punctually carry out every term in the agreement. 41 C. 844.

9. By Banker.

1. The Director of a Bank issued false balance sheets and declared 10 per cent. dividend to show that the bank was in a stable condition, when actually it was insolvent. They are guilty under S. 409 and the Manager and Accountant of abetment. 16 A. 88. *See* 9 M. L. T. 20.

2. Manager of the Bank disposing of property contrary to the Articles of Association, causing the shareholders to declare a larger dividend is guilty under S. 409. 28 P. R. 1915 Cr.=167 P. L. R. 1915.

3. Refusal to pay money due to customer due to losses sustained by Banker is no offence. 32 P. R. 1901 Cr.

4. A Bank is guilty under S 409 if it pledges War bonds given to it for sale. 1926 L. 385=27 Cr. L. J. 1383=98 I. C. 599.

5. If goods are entrusted to a firm, the Manager is not liable in case of breach of trust. 1930 R 332 (2)=32 Cr. L. J. 149=128 I. C. 578.

6. If the relation between the parties is that of Banker and customer there can be no criminal breach of trust. 32 P. R. 1901 Cr, 95 P. R. 1908 Cr.

7. Where Banker enters into a special contract to keep a certain sum intact and distinct from his capital in trade, it is a trust. 19 P. R. 1908 Cr.

8. The position of Banker is not that of trustee. 19 P. R. 1908 Cr.

10. By Broker.

1. Money paid to a broker for making payment to a firm. Appropriating part of it by him for brokerage dues is no offence. 38 I. C. 997. *See* 24 I. C. 332.

2. Money paid to a broker for a particular purpose, that he should indemnify in case of loss, is breach of trust under S 405. 24 I. C. 332=15 Cr. L. J. 452.

3. Advance taken by a broker on a pronote promising to pay paddy for the firm making the advance is a loan and not trust. The broker is not criminally liable if he fails to purchase paddy. 13 Cr. L. J. 269=14 I. C. 653.

11. By Carrier—or Warehouse Keeper. S. 407, I. P. C.

1. A carrier is a person who undertakes to transport the goods of other persons from one place to another for hire. Railway Companies are carrier. Indian Railway Act, IX of 1890

2. To establish offence under S. 407, it must be shown that some of the property entrusted to the accused cannot be accounted for by him. 5 Cr. L. J. 235.

3. Where accused was entrusted with the carriage of goods from Mysore to a merchant in Manglore and portion of goods was abstracted, and there was no evidence as to when and where such abstraction took place. Held, that Court at Manglore had jurisdiction to try the offence of criminal breach of trust under S. 407. 52 M. 61.

12 By customer taking property on approval.

Accused sold jewellery which he had taken from the complainant's firm on approval without paying the sum due on it to the firm, he was guilty under S 406. 51 C. 796.

13. By Director of Bank.

1. Where the Director of a Bank paid the dividends out of the deposits, when there were no profits thereby causing gain to persons to which they were not entitled and causing wrongful loss to depositors, they were guilty under S. 409. 16 A. 88.

2. Mere passing an incorrect balance sheet is no offence. 9 M. L. T. 20.

Breach of trust—(contd.)

3. A Managing Director of a Bank, wishing the Bank to make a better show, got a pronote from his son for Rs. 3,000 and reduced his own remuneration by Rs. 3,000 and after some months readjusted the accounts. Held, he was guilty under S. 409. *28 P. R. 1915 Cr.* 1930 L. 57=118 I. C. 650=30 Cr. L. J. 954.

14. By Executor.

It is wrong to say that only because accused is an executor *de son tort*, he is guilty of criminal breach of trust. 58 C. 1051=1931 C. 184=32 Cr. L. J. 836.

15. By Hirer. *See*—40.

1. The mere fact that a man who fails to produce an article which he took on hire is not sufficient. Three must be some evidence that he acted dishonestly. 1932 A. 324.

2. If the owner of house is unable to produce the meter installed by electric company it does not constitute criminal breach of trust. 1932 A. 324=33 Cr. L J. 866.

16. By Liquidator.

A liquidator who misappropriates money which has come into his custody as liquidator cannot be said to be acting or purporting to act in the discharge of his official duties. 129 I. C. 344=32 B. L R. 1134=1930 B. 487, 1929 B. 375.

17. By Manager of a firm.

If the goods are entrusted to the firm and not to its manager personally, he is not criminally liable for breach of trust. 1930 R 332=128 I. C 578=32 Cr. L. J. 149.

18. By Mortgagor.

1. If a mortgagor in possession, wilfully makes defaults and causes the property to be sold for arrears of Government Revenue for the purpose of defrauding the mortgagee and purchases it *benami* he is guilty under S 406 (1866) 5 W R. 230, 21 W. R. 230.

2. Refusal to give up mortgaged land or denial of mortgage is not dishonest misappropriation. 2 Bom. H C. R. 127.

3. Accused mortgagee handed over the mortgaged documents with endorsement that he was paid in full is not guilty, if he subsequently denies it. *20 Cr. L J. 151.*

19. By Partner.

1. Complaint against a co partner is competent, if the ingredients of the offence are present. 55 I C 674, 35 C. 1108, 10 P. R. 1903. *See* A L. R. 1934 C. *212*

2. It must be proved that accused enriched himself clandestinely at the expense of his partner. 1920 M. W. N. 346.

3. A partner misappropriated or converted to his own use partnership property. Held he was guilty. 21 W. R (Cr) 59, A. L. R 1934 Sind 1.

4. If the dispute between the partners was with regard to their respective liabilities and the complainant had admitted in writing that accused had paid up all dues, conviction under S. 408 is bad. 130 I. C. 833 (2)=1931 P. 159=32 Cr. L. J 620

5. Working partner with no contribution in partnership business is clerk or servant within S. 408 and can be guilty of misappropriation. 1934 Sind *22*, 1932 O. 57 Rel on. 35 C 1108 and 13 Beng. L. R. 307 Ref.

6. Partners do not come within the scope of S. 406 A. L. R. 1934 C. 212.

20. By Pleader.

Retention of money by pleader is not in every case criminal breach of trust. Retaining money for a fee which is time barred is no offence under S. 406. 1924 N. 47.

21. By Pledge.

1. A person who pledges what is pledged to him is guilty under S. 406. (1871) 6 M. H. C. R 28, 13 Bur. L. R. 286. But not in the absence of contract. 1922 O. 280.

2. The accused was entrusted with a pair of earrings to raise a loan of Rs. 7 only, but he raised a large loan and applied money to his own use without telling him so. He was guilty under S. 406, (1894) 1 Weir 464.

3. Accused who pledged promissory notes with the complainant as security for loan, dishonestly induced the latter to hand over the promissory notes, pretending that he

Breach of trust—(contd.)

embezzlement of particular sum with which he is charged, although they have succeeded in proving other sums. 1936 L. 907.

26. By Sapurddar regarding attached property.

1. Where a Sapurddar was entrusted with property attached in execution and did not produce it at the time of sale and evaded notice, he was not guilty under S. 406. 47 I. C. 875.

2. A deliberate refusal to produce the property attached and given to him for safe custody amounts to repudiation of trust and he is guilty under S. 406. 1935 L. 31=152 I. C 513=36 Cr. L. J. 119, 47 I. C. 875=19 Cr. L. J. 975 Ref.

3. If there is no refusal but the Sapurddar simply evaded service, he is not guilty under S. 406. 47 I. C 875=19 Cr. L. J. 975.

4. Where attached property is entrusted to a custodian, the mere existence of sapurdnama of a stipulation that on failure to produce the property he will be liable to pay a stated sum as price does not necessarily absolve him from criminal liability for misappropriation. 48 A. 288=1926 A. 302=27 Cr. L. J. 297=92 I. C. 585.

5. Where the Sapurddar brought the cattle to Tahsil and was willing to produce them, he was not guilty. 1933 L. 235 (1), 19 Cr. L. J. 975=47 I. C. 875.

27. By Servant or Clerk. S. 408, I. P. C.

1. Where a clerk in the service of an estate is authorised to receive money on its behalf and to pay in the Treasury, and is misappropriation by him, he is guilty. 58 I. C. 824.

2. Water tax Inspector misappropriating water for his own use and for his tenants, is guilty of offence under S 408. 35 A. 361.

3. Person employed by a Station Master to mark and load goods and paid out of allowance by the Company is not guilty under S. 408 if he recovers an overcharge and misappropriates it 40 A. 565=47 I. C. 367.

4. A servant of the Firm getting money from the Manager on the pretence that it is required for coolies is guilty under S. 408 if he misappropriates it. 13 I. C. 108.

5. Retention of money by servant or clerk for 15 months throws doubt on his *bona fides,* though it is not conclusive evidence of misappropriation. 40 I. C. 303.

6. A person working on commission is a servant. 51 I. C. 673=20 Cr. L. J. 513.

7. A servant cannot in order to defraud him set up breach of his master's regulations in his own favour. 1923 A. 480=76 I. C 971=25 Cr. L. J. 299.

8. Postmaster paying less than due under cash certificate and appropriating the balance is guilty under S 409, I. P. C 42 A. 204=55 I. C. 476, 10 B. 256 N. F.

9. A booking clerk received in excess and did not credit it to Railway. Held not guilty. 1923 L 295 (1)=75 I. C. 79=24 Cr. L. J. 879. 40 A. 565.

10. A Railway Claim Inspector selling goods to a claimant and not crediting it to Railway is guilty under S. 403 and not S. 408. 99 I. C. 593.

11. Servant failing to apply the sum, entrusted to him by the master, as directed, is guilty under S. 408. 1928 B. 557, 114 I. C. 399.

12. If a servant fails to return the property or account for it or gives a false account, he is guilty. 1925 R. 47=2 R. 476=26 Cr. L. J. 267.

13. A tonga driver used to pay the daily earning to the master every day but drove the Tonga 40 miles away to deprive him of it, is guilty under S. 408. 1925 L. 411=88 I. C. 461=6 L. 257.

14. Presumption of criminal misappropriation can be raised against a servant failing to properly account for money under Ss. 106/114, I. E. Act. 1925 R. 47=84 I. C. 331.

15. A servant was authorised to receive money for his employer and to account to him the same evening. He received three sums on three different days but neither accounted for nor paid them over. Held, he was guilty although he never denied receipt of them 5 P. 578=1926 P. 299=27 Cr. L. J. 611=94 I. C. 355.

16. It is not necessary that money should be followed in the hands of the servant or to prove where he spent it. Mere failing to pay to master or to his account is sufficient.

Breach of trust—(contd.)

136 I. C. 810=33 Cr. L. J. 343=1932 O. 145=9 O. W. N. 216.

17. Retention of money by servant in lieu of his pay is not punishable as he is entitled to do so under S. 221, Contract Act. 1935 A. 922.

18. If a Railway servant to whom a water proof is supplied pawns it, he is guilty under S. 408. 1934 R. 41=35 Cr. L. J. 788, 6 L. B R 62 Dist.

19. A working partner with no contribution in partnership business is clerk or servant within S. 408, I. P. C., and can be guilty of misappropriation. 1934 Sind 22, 1932 B. 57 Rel. on, 35 C. 1108, 1933 C. 582, 13 Beng L. R. 307 Ref.

20. Proof of non payment of money collected must be given by prosecution. 1934 C. 425 =35 Cr. L. J. 715.

21. If an employee when leaving service submits his account but withdraws certain amount due to him for security, he is not guilty, though his act was not legal 1936 C. 520.

22. When a master entrusts servant with money for the payment of an open account which had not been checked and servant accepts a present and the transaction amounts to taxation of the bill, it is a criminal breach of trust. But where the master has himself settled the account the servant is not liable for accepting the present. 8 A. 120.

23. If the court is not able to come to finding as to the definite sum misappropriated, conviction under S. 408 is improper. 1925 C 260=26 Cr L J. 532

24. If a Railway servant pawns his uniforms, he is guilty under S 408. 1931 R. 41= 35 Cr. L. J 788 (2)

25. A supervisor of a society debited Rs. 2 as the pay of a sweeper and got the thumb-impression of his nephew against the debit entry Held, he was guilty. 36 Bom. L. R. 1120

28. By Stake-holder.

A stake holder who misappropriates to his own use stakes deposited with him for a wager, is guilty of criminal breach of trust 2 L B. R 216, 10 Bur L. R. 249, 1927 N 225=28 Cr. L. J. 506, *Cont.* 1927 M 425=28 Cr L J 381.

29. By Trustee.

A manager of a temple, appointed by the committee is a trustee of the temple property and is guilty under S 409 if he misappropriates it 1 Weir 432, 6 M L J. 14

30. By Wife.

A woman has a joint possession of her husband's property and cannot be guilty of criminal breach of trust for disposing it in any way (1864) Weir (3rd Edition) 266.

31. Charge. Ss. 222 (2), 234, Cr. P. C.

1. The charge should specify the gross sum in respect of which the offence is committed, without specifying particular items or exact dates The dates between which the offence is committed should be specified, provided the time included between the first and the last item does not exceed one year 17 A 153, 18 A 116.

2. If the accused is charged with misappropriating an aggregate sum, the mere fact that the items composing such aggregate sum within a period not exceeding one year or more than three in number, will not render the charge illegal 24 A. 254, 1927 C. 409.

3. If the charge not only specifies the gross sum but also sets out items composing such gross sum, the charge is not defective rather it is favourable to accused. 1930 C. 717.

4. Accused was employed to receive from his master cheques in respect of certain amounts due on bills. He had to cash these cheques and pay the sum out of it. He was charged with criminal breach of trust in respect of specific sum of money during a certain period. Held, that the charge was legal 53 B. 119=1928 B. 557.

5. Charge may relate to gross sum, yet the prosecution must decide what amount they are prepared to prove. To convict him definite sums must be traced to accused. 42 A. 522.

Breach of trust—(contd.)

6. Where accused is charged with more than four offences in a trial, the trial is vitiated. 25 M. 61 (P. C.), 52 M. 999.

7. A conviction for criminally misappropriating 26 different sums amounting to Rs. 91-2-0 between the 4th of August 1921 and 12th January 1922 cannot be upheld. 1923 A. 483=76 I. C. 654=25 Cr. L. J. 220.

8. One charge was framed with regard to four sums of money said to have been embezzled. The Magistrate convicted the accused but passed sentence for each embezzlement and directed that sentence should run concurrently. Held, that there was no misjoinder of charges and though the sentences are invalid, it did not prejudice the accused to render the conviction liable to be set aside. 1930 A. L. J. 1130=1931 A. 267.

9. Accused was charged on three counts. Each count specified the sum misappropriated on a particular day but in two of three cases, the total sum consisted of three separate items in each instance. Held, that charge was not defective under S. 234. 27 A. 69

10. A single charge with regard to three sums is not illegal. 32 C. 1085.

11. Accused was charged for committing breach of trust in respect of some deeds but at the trial he was convicted of embezzling not the deeds but the amount obtained by dealing with those deeds. Held, that conviction was bad. 12 C. W. N. 577, 41 C. 844.

12. Criminal breach of trust in respect of three items of collection taxes within one year constitute single item of Municipal property and charge in respect of gross sum is sufficient. 1934 P. 232=148 I. C. 990, (*Case Law discussed).*

13. A joinder of charges under Ss 409 and 477 A for three different items is not covered by Ss. 234 235, Cr. P. C. It is an illegality vitiating trial. 1933 N. 327=34 Cr. L. J. 673, 44 A. 540=1922 A. 214, 39 A. 219, 49 B. 892=1926 B. 110, 30 M. 328, 41 C. 722 Rel. on, 1925 M 690=49 M 74 Dist.

14 Accused cannot be convicted regarding indefinite sum. 42 A. 522.

15. If the charges doe not mention even approximately the dates between which the misappropriation was committed, but only refers to date when it was discovered, it is bad for vagueness. 1936 B. 379.

32. Civil Dispute.

1. It is not for criminal courts to usurp the *functions of Civil Courts,* in recovering goods from persons who did not sell according to instructions. 65 I. C. 100, 96 I. C. 501, or denied receipt of goods. 1924 M. 516=72 I. C. 172, 1924 C. 893=82 I. C. 131, 1930 P. 221=125 I. C. 513=31 Cr. L. J. 802, 55 I. C. 469.

2 Advance from a firm on pronote for buying paddy for it does not come under S. 406. 14 I. C. 653.

3. Penal Code cannot be altered by agreement of parties to make S. 405 applicable to a transaction, which is really a loan. 24 I. C. 332.

4. A Criminal Court should not investigate whether a transaction is *benami* or not. 1924 C. 908=81 I. C. 829=25 Cr. L. J. 1053.

5. When right to property is disputed and claimed by third person, S. 406 does not apply. 28 C. 362.

6. Where a charge of criminal breach of trust is made against a general agent of a trader with general authority to expend the moneys, the cases must be rare in which it is sufficient to charge a net balance having been misappropriated. The use of criminal court to litigate a civil claim must be condemned. 42 A. 522.

7. An agreement between prosecutor and accused that money embezzled should be refunded, is *no bar to prosecution.* (1886) 1 Weir 462, (1883) 1 Weir 465.

8. Returning deposit to depositor's brother is one of civil liability. 1929 Sind 119=30 Cr. L. J. 735=117 I. C. 157.

9. The fact that during trial a civil suit has been filed by another to recover the sum claimed is a complete answer to charge of crimical breach of trust. 28 C. 362.

Breach of trust—(contd.)

10. Accused purchased gramophone on instalment basis. Held, that mere non-payment of instalment and non-production of machine cannot be considered as criminal offence. 1936 C. 674.

33. Complaint of—

1. A complaint under S 406 is barred by previous order of discharge, although irregular. 33 P. R. 1894 Cr. Dissented from in 10 P. R. 1911 Cr. (F. B.)

2. Complainant cannot be allowed to resurrect a case under S. 408 dropped long ago 1926 L. 213=96 I. C. 388=27 Cr. L. J 432.

3. A Criminal Court cannot take cognizance of a complaint against an administrator appointed under Probate Act without the sanction of the High Court. 1921 C. 431=60 I. C. 791.

4. Complaint after considerable delay should not be proceeded with. 1926 L 213=27 Cr. L. J. 932.

34 Debt or trust.

1. On a charge of criminal breach of trust accused pleaded that the amount claimed by the complaint was due to them as debt but having sustained losses in business they were unable to pay, held not guilty. 32 P. R. 1901, 95 P R 1885.

2. The accused agreed to use the complainant's money advanced to him for solely buying paddy. He also signed a demand promissory note for the amount of advance. Accused failed to carry out the arrangement Held, he was not guilty, as there was no trust but a loan. 6 B L. R 46—62, 7 L. B R. 16, 14 I C 653.

35. Delay in remittance.

1. Mere delay in remittance to the treasury when there is no particular obligation to pay it at a certain date does not amount to criminal breach of trust. 1930 M. 507=58 M. L J 649=127 I C. 238=31 Cr L J 1198, 20 Cr L J. 90.

2. If there is delay in remittance to the treasury there is a great dereliction of duty in not seeing that rules are not observed But, for the offence under S. 409 it should be proved that accused had the intention of wrongfully keeping the Government money 1928 B 205=111 I. C. 730=29 Cr L J 922, 11 P R. 1908 Cr., 12 M 49.

3. Mere delay in making remittance to head office is not conversion to one's use 106 I C 862, 1934 C 532

4 Retention for a sufficient long period raises presumption of dishonest intention 35 Cr L J. 1279=1934 C 532, 41 C 844 and 1925 C 613 Rel

36 Disputed or bona fide claim

1. The accused was employed by the complainant's firm to sell paddy, who alleged that accused withheld some money There was dispute about the number of bags and some other person brought a suit for the recovery of price of some of those bags. Held, that accused was not guilty. 28 C 362

2. Where the accused still retains property and has some claim to it, even it turns out not to be sustainable in law, there is no offence, unless it is merely a pretence and not *bona fide* 28 C. W. N. 831=1924 C. 908=81 I C. 829

3. Accused setting up claim to property entrusted to them are guilty under S. 406. 29 I. C. 671=16 Cr. L. J. 543.

37. Dominion over property.

1. If an accused in charge of distribution of water from Municipal water tax, misappropriates water for his own use, without paying any tax and without giving information to his employers, he is guilty under S 406, as he had " dominion over " it. 14 Cr. L. J. 415=20 I. C. 239.

2. The accused hypothecated to the complainant all his claims as contractor in respect of work done and materials supplied to the Executive Engineer and undertook to make over all cheques to him. In violation of this written contract, he cashed two cheques and misappropriated the sum Held, he was guilty under S. 406. (1908) U. B. R. 13 (P. C.)

Breach of trust—(contd.)

3. If a mortgagor in possession makes wilful default and causes the property to be sold for arrears of land revenue and purchases it *benami*, he is guilty under S. 406. (1866) 5 W. R. 230 (Cr).

38. Entrustment. *See*—3.

39. Essential and Evidence.

1. In the absence of evidence of misappropriation, conviction is illegal. 1929 P. 506 =117 I. C. 632=30 Cr. L. J. 812.

2. Prosecution is not bound to prove mode of misappropriation. 30 I. C. 649, 1930 P. 209=121 I. C. 321=31 Cr. L. J. 249.

3. In case of substitution of worthless property for valuable one, it must be proved that packages contained valuable property. 1925 C. 501=86 I. C. 38=26 Cr. L. J. 662.

4. Finding as to definite sum traced to accused is necessary. 1925 C. 250=85 I. C. 372.

5. When offence under S. 408 is committed in respect of several items the Jury should be asked to give a general verdict. 1930 C. 717=129 I. C. 359=32 Cr. L. J. 321.

6. Mere wrong entries in books of account cannot be basis of conviction. 1930 L. 408 =129 I. C. 298, 1930 O. 324=126 I. C. 684=31 Cr. L. J. 1081.

7. Failure to account for money is a mere piece of evidence and is not conclusive. 1930 P. 209=121 I C 321=31 Cr. L J. 249.

8. Evidence of defalcation prior or subsequent, is admissible to prove criminal intent as also to anticipate the defence of non existence of such intent. 97 I. C. 1041=1927 Sind 28=27 Cr L J. 1217=21 S. L. R. 55.

9. Loss to principal or some other person is not an ingredient of offence. 32 Bom. L. R. 1195=1930 B 490=129 I C. 385.

10 In a case of misappropriation, it is generally impossible for the prosecution to follow money in the hands of the accused or to prove that he spent money in a particular manner The prosecution must stop when it is proved that the accused has received the money, has acknowledged the receipt and has failed to pay it to his master or show in his master's accounts. 1932 O. 145, 1936 P. 350=15 P. 108.

11 If ornaments are given to goldsmith for melting and he does not return the melted gold, he is guilty. But if property in ornaments passes to him, he is not guilty. 1936 A. 691.

12. Fraud or deceit is no ingredient of the offence. 1936 P. 350=15 P. 108.

13 Loss is no ingredient of the offence. 1930 B. 490, 46 B. 641, 9 R. 338.

14. Evidence as to history and dealings between accused and owner is relevant under S 14, Evidence Act, and the dishonest intention can be deduced from it. 1936 P. 350=15 P. 108.

15. Criminal breach of trust can be committed in respect of property obtained by cheating. 1936 M 1=37 Cr. L. J 142, 1923 M. 597 and 13 Cr. L. J. 15 Rel on. 1936 M. 353=37 Cr. L J. 637.

16. Transfer of certain amount from another's account to one's own is enough to constitute the offence. 1925 L 385=27 Cr. L. J. 1383.

40. Explanation by accused.

1. If the accused gives credible and probable account of the disappearance of property, he need not show what exactly has become of it. 1934 R. 42=35 Cr. L. J. 849.

2. If the account given by accused is false and incredible, he is guilty. 1925 R. 47 = 26 Cr. L. J. 267=2 R. 476

3. Merely because accused makes use of false testimony or makes false defence, he is not deprived of presumption of innocence. 1934 Sind 22.

41. Failure to account. *See*—2.

1. If a property is entrusted to a servant, it is his duty to give a true account of what he does with it. If he fails to return the property or to account or gives an account which is shown to be false, it is a reasonable inference that he has criminally misappropriated it. 1925 R. 47=26 Cr. L. J. 267=2 R. 476, 22 C. 313.

Breach of trust—(contd.)

2. Failure to account or giving false account for money is a mere piece of evidence and is not conclusive. 1930 P. 209=31 Cr. L. J. 249, 1926 M. 535, 9 A. 666.

3. The position of a shroff of a Battery with reference to the custody of Government money entrusted to him being that of a cashier, his failure to produce the entire amount of balance of cash entrusted to him amounts to criminal breach of trust. 19 P. R. 1908 Cr.

4. It was the duty of the servants authorised to receive money for his employer to account for and pay over the same evening. He received moneys on three different days but neither accounted for nor paid them over. Held, he was guilty. 5 P. 578.

5. If a public servant does not hand over to his successor the money in his hands due to Government as shown in the Register, it is a *prima facie* evidence of embezzlement. 1 Luck. 345, 23 L W. 718.

6. A conviction for criminal breach of trust with regard to deficiency of running account can be had according to the amendment of S. 222 (2), Cr P. C. 136 I. C. 810=33 Cr. L J. 343, 29 C. W. N. 54.

7. The mere failure to account at a place is not the same thing as dishonestly using or disposing of money at that place and the offence cannot be tried there 1931 C. 521 =133 I C. 703, 134 I. C. 929=32 Cr. L J 1249. *See* 134 I C. 433.

8. In case of non-accounting, failure to account may itself be taken as evidence of intention to misappropriate and the place where account is to be rendered gives jurisdiction. 1934 C. 392=35 Cr. L. J. 734, 1925 C. 613 Expl.

9. If the prosecution proves receipt of money by accused and entrustment, it is for the accused to prove his defence. 1934 C. 532=35 Cr L. J. 1279.

10. Retention for sufficient long time may justify presumption of dishonest intention. 1934 C. 532=35 Cr. L. J. 1279.

11. Complainant called upon accused to produce certain documents who evaded. He produced them at the time of cross examination of complainant. Held, cross examination could not be refused. 1933 C 65=60 C. 341.

12. Where the master was in debt to servant for a sum exceeding Rs. 300, mere failure of servant to give account of Rs. 32 is not dishonest. 3 I C. 285.

42. Hire-purchase agreement.

1. If a person gets an article under hire-purchase agreement and subsequently sells it without making payments in full to the person from whom he hired it, he is guilty under S 406. 7 B L. T. 222, 45 A. 588, 24 I. C. 161, 30 I. C. 649, 51 C. 796.

2. The accused hired a motor car of the complainant under a hire-purchase system, which provided that until car was fully paid for by the accused, the car was to remain the absolute property of the company and he agreed during hiring not to "assign, underlet or part with possession" of the car in any way. He pledged it to three different persons. Held, he was guilty. 17 Bom. L. R. 670=30 I. C. 649.

3. Accused got car under hire-purchase system. The complainant brought a suit for the recovery of price still remaining due under the agreement and got a decree. In contravention of original hire-purchase agreement accused sold the car after the decree. Held, that he was not guilty under S. 406. 18 Cr. L. J. 728=40 I. C. 728.

4. Accused got a lorry under hire-purchase agreement, that he would be "hirer" and would not deal with it unless he paid all the instalments. In contravention of this agreement he sold the lorry before the instalments were paid, he was guilty of criminal breach of trust. 45 A. 588=1923 A. 598.

5. If a purchaser of lorry commits default in payment of instalment under the hire-purchase agreement, the Vendor Company has right to recover possession through court and not by force. 1934 O. 108=35 Cr. L. J. 740=148 I. C. 696, 15 Cr. L. J. 232, 1928 P. 124 and 1924 P. 143 Rel on.

6. If purchaser is given option to terminate contract of hire by paying hire due on such date and returning goods the transaction is not out and out sale. 1934 O. 133=148 I. C. 793, 1925 B. 18=49 B. 172 and 54 B. 381 Ref.

7. Owner forcibly took possession of the lorry from the purchaser on

Breach of trust—(contd.)

system, for breach of contract. Purchaser asked for search warrant and made a complaint. Held, that the Magistrate's order returning lorry to purchaser is legal, although he dismissed the complaint. 1933 C. 149=34 Cr. L. J. 676. 1931 C. 455 =132 I. C. 902 Dist.

8. Accused purchased gramophone on instalment system but failed to pay monthly instalment and to produce the machine. Held, it was only a civil dispute. 1936 C. 674.

43. Intention.

1. It is the intention which is essential and not the loss or gain that is actually caused. 38 M. 639, 30 P. R. 1879, 9 A. 666, 1923 R. 209=74 I. C. 74=1 R. 56, 1923 L. 487, 52 I. C. 480=20 Cr. L. J. 654.
2. Criminal intent at the time of receipt of money is not essential. 22 M. L. J. 112.
3. Misappropriation may be committed by some mental act, which should be proved by an overt act. *36 P R. 1887.*
4. Intention to pay back money negatives dishonesty. 39 P. L. R. 1902.
5. The criminal intention in a charge under S. 409 is a matter of inference from proved facts 87 I. C. 962.
6. Intention can be deduced from history and dealings between parties. 1936 P. 350.
7. The section does not include an intention to appropriate at future date. 1934 L. 843.
8. Intention to deprive owner of the use of property for some time and secure use of it for one's own benefit for a time is sufficient. 1936 P. 350=15 P. 108, 8 Bom. L. R. 951 Foll.

44 Joint Trial under S 406 and S 477-A I. P. C.

1. It is illegal to try a person on a charge which alleges three distinct acts of criminal breach of trust and three distinct acts of falsification of account though in respect of the same items. 49 B. 892, 30 M. 328, 41 C. 722, 32 B. 221 Dist.
2. Joinder of charges under S 408 and S. 477-A. (falsification of account to conceal the defalcation) vitiates the trial. 44 A. *540, 32* A. *219. 1931 P. 349.*

45 Jurisdiction S 181 (2), Cr. P. C.

1. Complainant a resident of "A" appointed agent to sell goods at "D" who misappropriated sale proceeds Court of A has no jurisdiction. 39 M. 576, 1924 L. 663.
2. If there is a contract to render account at a place, the offence under S. 406 is committed at that place. 1925 C. 613=86 I. C 213=26 Cr. L. J 725, 47 I. C. 92, 1922 C 46 (1)=71 I. C 241, 1926 L 119=96 I C. 212=27 Cr. L. J. 900.
3. Accused was agent at Calcutta of a firm carrying on business at Ahmadabad. The offence under S 409 is cognizable by Calcutta Courts only. 1924 C. 893=82 I. C. 131. *Cont. 19* A. *111, 26* C. W. N. *175.*
4. It would not give jurisdiction to British Courts merely because the offence is committed in the course of journey. 52 M. 61=1928 M. 1136.
5. Jurisdiction of Magistrate in a case of criminal breach of trust is, where balance is payable. 2 P. R. 1902 Cr.
6. The offence is triable where dishonest use or disposal took place and not where loss ensued to the complainant. 44 C. 912, 1. R. 56, 74 I. C. 74, 1925 C. 613, 23 Cr. L. J. 743, 1925 C. 107, 40 I. C. 293, 86 I. C. 213, 38 M. 639, *Cont.* 35 A. 29, 46 B. 641, 32 A. 397, 2 P. R. 1902, 24 P. R. 1901, 19 A. 111, 38 M. 779, 1924 L 663= 77 I. C. 490, 1922 C. 46, 9 R. 338.
7. Servant embezzled money at Rurki. Only Rurki Court had jurisdiction. 22 P R. 1915 Cr.
8. S. 179 does not apply *to question of jurisdiction for offences* of *criminal* breach of trust. 83 I. C. 696, 1924 L 663, 9 R. 338.
9. The offence may be inquired into either where the offence was committed or where consequence ensued. 1926 A. 466=96 I. C. 656, 1925 C. 107, *Cont.* 39 M. 576.
10. The Court in whose jurisdiction the property was received or retained has jurisdiction. 51 B. 101.

Breach of trust—(contd.)

11. The accused hired a cycle at Poona for 6 hours but instead of returning it he took it away be yeola and deposited it with D. as security for advance of Rs. 6. Held, that Poona Magistrate had jurisdiction. 51 B. 101=1927 B. 38=28 Cr. L. J. 44.

12. Where the money was received in Calcutta and misappropriation took place there, only Calcutta Court had jurisdiction. 77 I. C. 425=1924 C. 107=25 Cr. L. J. 377.

13. The complainant carrying on business at Lyallpur employed accused his agent to sell goods at Karachi. The agent was to send the sale proceeds and accounts to Lyallpur. Held, that Lyallpur Court had no jurisdiction to entertain a complaint under S. 408. 1924 L. 663=77 I. C. 490 *See* 1925 C. 613, 1926 L. 119=96 I. C. 212.

14. One of the consequences of criminal breach of trust, if committed by an agent, would be the loss to the person to whom the property belonged and therefore the Court where loss occurred has jurisdiction to try the case. 46 B. 641. *Cont.* 74 I. C. 74.

15. In case of criminal breach of trust by carrier, the Magistrate in whose jurisdiction the goods are to be delivered has jurisdiction. 52 M. 61=1928 M. 1136

16. Accused can be tried at a place where the money which is the subject matter of the offence was received by him. 1932 A 26=135 I C. 228=33 Cr. L. J 127.

17. The mere failure to account at a place does not give jurisdiction to the Court of that place. 1931 C. 521, 133 I. C. 703, 134 I C. 929. *See* 134 I. C 433.

18. Accused acknowledged the receipt of Railway receipt but failed to send money. Held, that the Court within whose jurisdiction accused resided had jurisdiction. 1932 A. 367=1932 A. L. J. 269=139 I. C. 159=33 Cr. L. J. 711.

19. Accused were entrusted with ghee in Kashmir for conveyance to Rawalpindi. They must be given the benefit of doubt if it is doubtful whether the offence was committed in British India or outside 1923 L. 487=24 Cr. L J. 579.

20. Residence of complainant or one who suffers wrongful loss does not determine jurisdiction. 1934 A. 127=35 Cr. L. J. 934, 1921 A. 12=60 I. C 996 Dist.

21. Complainant, a resident of Jhansi, opened a branch at Calcutta Accused was in charge of Calcutta Branch and had to submit accounts at Jhansi. Held, Jhansi Courts cannot entertain complaint under S. 406 1934 A. 127=35 Cr. L. J. 934, =149 I. C. 402, 34 A. 487 Rel. on.

22. Accused manager at Dehra Dun of Tea Estate belonged to a State. Amounts were received and accounts maintained at Dehra Dun Held, that offence was committed there and the extradition warrant was illegal. 1934 A. 148=35 Cr. L. J. 1296.

23. Non accounting is itself an offence. Place of accounting is the place of offence. 1934 C 392=35 Cr. L. J 734, 1925 C. 613 Expl.

24. Accused received money honestly at N. but misappropriated at R. Held, he could be tried at N. or R. 1933 L 559=34 Cr L J. 902, 1923 R 81=25 Cr. L J. 371 Dist. 1925 L. 171=26 Cr. L. J. 136, 108 I. C. 901, 1926 L. 119, 1925 C. 613 and 1931 C. 532 Ref.

25. The Court at a place where accused is required to render account has jurisdiction. 1936 A. 193=37 Cr L. J. 284 (*Case law discussed*)

26. If breach of trust is committed at a branch office of firm, the Court at Head quarters has jurisdiction. 35 A 29.

46. Loss. *See*—45.

Loss is no ingredient of the offence of criminal breach of trust. 32 Bom. L. R. 1195= 1930 B. 490=129 I C. 385, 46 B. 641, 9 R. 338.

47. Marriage Brocage Contract.

1. Where the parent of the girl are not seeking her welfare but give her to a husband otherwise ineligible in consideration of a benefit it is opposed to public policy and is not enforceable 23 A. 495.

2. An agreement to pay money to the parent or guardian of a minor in consideration of his giving the minor in marriage is void as opposed to public policy. 22 B. 658, 13 B. 126, 15 C. W. N. 447, 32 M. 185, 112 P. R. 1892, 128 P. R. 1889, 116 P. R. 1880, 106 I. C. 803, 5 P. 646.

Breach of trust—(contd.)

3. Agreement to pay money to a stranger, hired to procure wife for a man is opposed to public policy. 17 M. 9, 13 B. 131.

4. Money paid for arranging for marriage can be recovered if contract is not one of brocage. 1923 N. 296=74 I. C. 107.

5. Agreement to pay money for persuading woman to marry person paying is opposed to public policy. 50 I. C. 551.

48 Paying back embezzled money.

1. The mere fact that on account of sheer timidity or on account of desire to avoid running the risk of disgrace of a criminal trial and of dismissal, the accused or some one on his behalf paid back half of amount said to have been embezzled, to the parson to whom it was due, does not furnish any proof of guilt, although when once the crown has established the guilt of the accused by the evidence of the prosecution witnesses, then such subsequent conduct may be utilized as furnishing further proof of the correctness of the conclusions as to the guilt of accused, drawn from prosecution evidence 1930 O. 324=126 I. C. 684=31 Cr. L. J. 1081.

2. Intention to pay back money negatives dishonesty. 39 P. L. R. 1902.

3. Court should not assume guilt if repayment is made on demand. 1927 Sind 28=27 Cr. L. J. 1217.

49 Procedure

1. A magistrate cannot grant bail under S 409. 1930 R. 335 *Cont.* 1933 B. 492.

2. Where a person receives money for the express purpose of using it for his master's benefit in particular way he is entrusted with money. A conviction for misappropriation of a large sum of money made up of various items—more than three in number—on false pretences is not illegal. 22 M. L. J. 112=12 M. L. T. 120.

3. There must be a definite finding of a certain definite sum traced to the accused in order to form the basis of his conviction. 1925 C. 260=26 Cr. L. J. 532.

4. A trial of embezzlement for a gross sum between two dates is no bar to an embezzlement of a certain specified sum in that period. 53 A. 411, 1923 C. 654, 32 I. C. 158.

5. Prosecution against manager, Court of Wards, does not lie without sanction. 1931 P. 86=130 I C. 543=32 Cr. L J. 555=12 P. L. T. 421.

6. An agreement between the Prosecutor and the accused to refund the embezzled money is no bar to prosecution (1886) Weir 462 (1883) Weir 465.

7. Appellate court can alter conviction from one of cheating to one of criminal breach of trust. 1933 P. 26=34 Cr. L. J. 419, 12 B. H. C. R. 1.

8. Accused was tried under S. 420 and 406 on the same facts Charge of cheating was compromised and accused was acquitted. Held, it was no bar to conviction under S. 406. 1936 M. 353=37 Cr. L. J. 637.

50. Property—Moveable.

1. A cancelled cheque falls within the term property. The question of the value of the property in respect of which the breach of trust is committed is except so far as S. 95 is concerned, quite immaterial. 27 A. 28

2. S. 405 refers only to moveable property. 8 R. 13=1930 R. 158, 23 C. 372, 125 I. C. 271=31 Cr. L. J. 799, 36 C. 758, 1926 L. 478.

3. A cheque is property within the meaning of S 408 1930 A. 449=31 Cr. L. J. 865.

4. A paper was handed to another for being read. An offence under S. 406 was committed. 1905 A. W. N. 9=2 Cr L. J. 94.

51. Scope.

1. S. 405 refers only to moveable property. 8 R. 13. 23 C. 372, 36 C. 758.

2. S 405 does not apply if contract in respect of which money was received by the accused was a wagering contract. 100 I. C. 989=1927 M. 425=52 M. L. J. 179=28 Cr L. J. 381.

3. The trust contemplated by S. 405 need not be in furtherance of lawful object. 101 I. C. 890=1927 N. 225=28 Cr. L. J. 506.

Breach of trust—(concld.)

52. Sentence.

1. A Postmaster took V. P. and Railway Receipt and falsified the Register. Sentence of one year was adequate 52 M. 534=1929 M. 447=30 Cr. L. J. 929.
2. A severe punishment is necessary for misappropriation of public money. 106 I. C. 337.
3. A sentence of imprisonment is obligatory under S. 409. 1926 L. 350=94 I. C. 130.
4. S. 62, I. P. C., does not apply to S. 406 and hence in a sentence under S. 406 the Court cannot order that the rents and profits of the property of the accused should be forfeited to the Government, during the period of his imprisonment. 29 A. 25.
5. Magistrate, on conviction with regard to embezzlement of four sums of money, sentenced accused on all the four counts, although one charge was framed and ordered that the sentences should run concurrently. Held, that the sentences though invalid, did not prejudice the accused to render the conviction liable to be set aside. 1930 A. L. J. 1130=1931 A. 267=32 Cr. L. J 155=52 A. 941.
6. Usually imprisonment should be given under S. 408. When accused was released under S. 562 but Revision was filed after long delay the order was not set aside. 1928 L. 926=107 I. C. 775, 19 P. W. R. 1910 Cr., 1925 B 192
7. A clerk of many years' service committed breach of trust of a large amount Held, five years' rigorous imprisonment was not too severe. 1934 A. 173, 148 I. C. 218.
8. If a head constable finding stolen property enters into agreement with the accused and reports the case untraceable, he is guilty under S 409 and deterrent sentence is called for. 1935 N. 139=36 Cr. L. J. 867.
9. The offence cannot be condoned on the ground of negligence of those who were bound to control his actions. 15 L 331=1934 L. 667.

53. Similar acts

1. Evidence of defalcation prior or subsequent whether such defalcation formed the basis of other charge or not is admissible to prove the criminal intent, as also to anticipate the defence of non existence of such intent. 1927 Sind 28=97 I C 1041
2. Accused was charged for embezzling three specific sums. Held, that the evidence of collateral offences in respect of other sums was not admissible. 1928 L 382
3. Accused was charged for misappropriation by defalcation of accounts made in 1925 and 1926 Evidence was adduced by prosecution of similar acts done by accused in 1924 Held, that the evidence was admissible to rebut the probable plea of mistake or innocent condition of the mind of the accused The evidence was that there was a common link between the acts of 1924 and those of 1925. 1928 L. 880=111 I. C. 387=29 Cr. L. J. 835, 42 C. 957, 6 C. 655 Ref.
4. Accused pleaded payment to wrong persons under misapprehension Evidence of other transactions of conversion of money to personal use is not admissible. 1933 C 136=34 Cr L. J. 294.

54. Wrongful gain or loss.

1. Wrongful gain includes wrongful detention and wrongful loss includes being wrongfully deprived of property. 1936 P 350=15 P. 108, 22 C. 1017 and 1929 P. 429 Foll.
2. Loss is no ingredient of the offence under S. 406. 1930 B 490; 46 B. 641; 9 R. 338.

BREAKING OF LOCK. *See* Criminal force—1.

BREAST DEVELOPMENT. *See* Age, Virginity.

BRIBE. S. 161, I. P. C.

1. Abetment of—(offer) Ss. 107, 109, 116, I. P. C.

1. Accused successfully interceded with an officer to get contract for his cousin and then offered him Rs. 5,000 to be given to charities as thanksgiving. Held he was not guilty. 1923 B. 44 (2)=67 I. C. 818=23 Cr L. J. 466.
2. Offering of bribe to a Police officer to withdraw the case, after the accused had been discharged is no abetment. 64 I. C. 369=23 Cr. L. J. 1
3. A person handing over money to Magistrate to show favour to an accused is guilty,

Bribe—(contd.)

though his motive may be to expose a corrupt Magistrate. 42 I. C. 989.

4. A person responding to the call of public servant by payment of bribe is an abettor. 38 I. C. 439=18 Cr. L. J. 327.

5. Offering bribe to an Inspector in the Finger Print Bureau in order to make him give favourable evidence is offence under Ss. 161/116, I. P. C. 69 I. C. 445.

6. Patient was ordered to be discharged from Hospital. An offer of bribe to retain him for a longer period is an offence under Ss. 161/116. 1930 M. 671=31 Cr. L. J. 1088, 1929 M. 756 Dist.

7. Offer of currency notes for obtaining employment is an offence under S. 161. 6 L. 98, 1925 P. 48=83 I. C. 679=3 P. 647. *See* 9 P. R. 1898.

8. Persons who actually pay bribe or co-operate or are instrumental in payment are abettors and as such accomplice. 30 Cr. L. J. 311=114 I. C. 457=1929 N. 215, 14 B. 331, 26 B. 193, 27 C. 144, 14 B. 115, 3 Cr. L. J. 452.

9. Where a person is accused of abetment of bribing a head constable, the first part of S. 116 is applicable and not the second part, as the offence is not cognizable by Police and is not one, the commission of which it is the duty of the head constable to prevent. 1928 L. 840=109 I. C. 681=10 L. L. J. 364=29 Cr. L. J. 601.

10. A person who with knowledge that bribe has to be paid, advances money is clearly an abettor. 1929 N. 215=114 I. C. 457=30 Cr. L. J. 311, 14 B. 331, 26 B. 193, 27 C. 144, 38 I. C. 429, 53 B. 479=1929 B. 296.

11. The giver of bribe is guilty under Ss. 161/116. 30 Cr. L. J. 1055, 1929 M. 756.

12. Abortive attempt to give bribe is an offence under Ss. 161/116, I. P. C. 1935 Pesh. 26=154 I. C. 910=36 Cr. L. J. 626.

13. In a departmental inquiry a public servant was summoned as witness. Accused offered him Rs 100 as illegal gratification for rendering him service by not giving evidence against him or by so shaping it as not to injure him or generally by influencing the Divisional Forest Officer. Held, he was guilty of abetment. 1935 Sind 7=1935 Cr. C 48, 1927 M. 1011=51 M. 86=28 Cr. L. J. 1005, 1923 B. 44=67 I. C. 818=23 Cr. L. J. 466 and 1933 A. 513=55 A. 654=34 Cr. L. J. 623 Ref.

14. Abetment of abetment of bribery is punishable under S. 108. Explanation, 4 I. P. C. 1934 Pesh. 110.

15. The fact that bribe was solicited at most renders the abetment less culpable than it would otherwise be. 1933 A. 513=34 Cr L. J. 623=38 I. C. 439 Foll.

16. Bribe givers are not exonerated merely because Judge takes money without any guilty intention. 1933 A. 513=34 Cr. L. J. 623.

17. Inciting persons to instigate Magistrate to accept bribe is an offence under S. 161. 4 C. 607. *See* 22 C. W. N. 1045.

18. Persons who lend money or are merely present when bribe is given are not accomplices. 33 C. 649, 27 C 144, 27 C. 925.

2. Abetment of taking gratification to influence puclic servant.—S. 164, I. P. C.

Certain persons accompanied another who was entrusted with and carried money intended to be given as bribe to their knowledge. Held, they were accomplices and their evidence should be viewed with suspicion. 2 C. W. N. 672. Dist. 27 C. 144.

3. Accepting donation.

1. A public servant accepting a donation for charity in which he is interested, as a motive for showing favour is guilty. 67 I. C. 818.

2. Taking 300 rupees for repairing a temple for restoring a suspended person to office is bribe. 21 B. 517, 24 Bom. L. R. 534.

4. Accomplice in offering. *See*—1.

1. A person who offers bribe to a public officer is an accomplice. Persons who actually pay or co operate in such payments or are instrumental in the negotiations for the purpose are also accomplices. 1929 N. 215, 14 B. 331, 26 B. 193, 27 C. 144.

2. A person paying bribe under the orders of his master is guilty. 26 M. 1.

Bribe—(contd.)

5 Allegations of taking.

1. Where it is proved that the complainant had notoriously bad reputation as bribe taker, the imputation made as to his having taken bribe on a particular occasion, even if false, could not damage his reputation as he had none to lose. 4 L. 55.

2. Statement that Government servant worked for money in favour of a candidate at an election is not charging him with bribery. 6 P. 224=101 I. C. 506.

6. Attempt to.

1. Mere offer to pay illegal gratification is an attempt to bribe. Actual money need not be produced at the time of offer 3 P. 647=83 I. C. 679=1925 P. 48.

2. A mere asking is sufficient to constitute offence. 2 A. 253.

3. Prosecution need not show how the illegal gratification came to be demanded or obtained, so long as it can be proved that it was obtained. 15 A. L. J. 127.

4. The asking for bribe may be in implicit or explicit terms. 2 A. 253. 24 Bom. L.R. 534.

5. A demand of money by a Court peon as a reward for serving summons on his witnesses without an identifier is an attempt to bribe. 32 C. 292.

6. B, a clerk in the Pension Department, in an interview with A who was an applicant for a pension, after referring to his influence in the Department, gave two instances in which he got the pensions increased and said that anything might be effected by money The overture being rejected, he declared that A. would repent the rejection of it. Held, B was guilty of attempt. 2 A. 253.

7. Charge

Where a bribe was collected from certain villagers and was handed over to the recipient in a lump sum. Held, that he could not be charged under S. 161 for collecting the lump sum but that he should be charged for not more than three items constituting the total collection 24 A. W. N. 223. *See* 25 M. 61, 3 Bom. L. R. 540, 32 P W R. 1911 Cr., 11 P. R. 1911 Cr.

8. Essential and Evidence.

1. A Patwari who took grain for showing favour to the giver in the discharge of his functions was guilty under S. 161 2 N. W P. H. C. R. 148.

2. Where a constable entered a house and arrested some persons as gamblers but released them on payment of bribe, was guilty. (1866) 5 W. R. 49 (Cr.)

3. A public servant accepting a donation to a charity in which he is interested, as a motive for showing favour to the donor in his official acts is guilty under S. 161. 1923 B 44=67 I. C. 818=23 Cr. L. J. 466

4 S 161 does not require any particular criminal intention in the mind of the giver or receiver of the bribe. 22 M L. T. 373.

5. Where the complainant did not willingly offer the bribe, but was forced by Police officer to do so, his evidence, though of an accomplice, requires very little corroboration. 14 B. 331, 26 B. 193, 27 C. 925.

6. The testimony of a bribe-giver must be corroborated in material particulars. 63 P. L. R. 1918, 30 Cr. L. J. 311. *See* 3 Bom. L. R. 694.

7. Raising money for the purpose of giving bribe and the merits of the case to decide which in favour of the bribe-giver a Judge accepts the illegal gratification are sufficient to corroborate the former who is really an accomplice. 3 P. W. R. 1918 Cr.

8. The principal witnesses in bribery cases are abettors, so that their evidence is that of accomplices. 38 I. C. 429=18 Cr. L. J. 317, 114 I. C. 457.

9. A public servant taking money as a motive or reward, only for the purposes mentioned in the section is guilty. 39 I. C. 805, 1923 M 851, 89 I. C. 455.

10. Actual discharge of public function, when receiving bribe, is not required. 18 P. R. 1918 Cr.=96 P. L. R. 1918=26 P W. R. 1918 Cr.

11. A chaprasi receiving Rs. 20 for payment to Clerk of Court who is to register the candidate is guilty. 9 P. R. 1917 Cr.=39 I C. 680

12. In a charge of bribery the evidence must be conclusive. 26 P. W. R. 1911, Cr.

Bribe—(contd.)

13. A charge under S. 161 need not be in respect of every item received by the accused from several persons for a common object useful to all. 11 P. R. 1911 Cr.

14. Demand of money for registering a Vakalat is no offence. 18 Cr. L. J. 37.

15. A convict warder in Jail is a public servant and his taking a rupee for smuggling a newspaper in Jail is an offence. 1924 B. 385=83 I. C. 342=25 Cr. L. J. 1382.

16. Effect of bribe on receiver s mind is immaterial. 1925 N. 313=89 I. C. 1035.

17. If a person erroneously represents that the particular act is within his official duty and takes bribe he is guilty. 1928 A. 752=30 Cr. L. J. 67=113 I. C. 179.

18. Unconnected instances of receiving bribe from the same firm in subsequent years is inadmissible 6 C. 655, 34 A. 93, 28 B. 129.

19. Gratification in S. 161 is not restricted to pecuniary one or gratification estimable in money. 1923 B. 44=67 I. C 818=23 Cr. L. J. 466.

20 Mere knowledge that a bribe was to be given would not make a person who has knowledge, a participator in the giving of bribe. 53 B. 49=1929 B. 296.

21. No favour need be shown to the briber as a fact. It would be sufficient if he was led to believe that the matter would go against him if he did not pay the bribe. 1925 B. 261=86 I C. 72=26 Cr. L. J. 696.

22. Offer of currency notes to an officer for obtaining employment is an offence under S. 161. 6 L. 98=1925 L. 401=88 I. C. 857.

23. It is not necessary that the gratification need actually be produced. 51 M. 86=1927 M 1011=28 Cr. L J. 1005=105 I. C. 829.

24. A statement by a witness that he heard A say, in the absence of the accused that he had paid a sum of money to the accused as a bribe, is hearsay and is not admissible. 2 C. W. N. 672.

25. Money paid for obtaining release of a person wrongfully confined by Police officer is not illegal gratification but as money extorted. 27 C. 925.

26. Statement "X wished to pay you Rs 5,000" to public servant may constitute instigation. 1923 B. 44=23 Cr. L. J. 466=67 I C 818.

27. Expression of opinion conveyed to public servant that a suitor was willing to give him bribe, does not amount to an offence. 1933 A. 513=34 Cr. L. J. 623.

9 Exercise of official duty.

1. If a person erroneously represents that a particular act is within the exercise of his official duty and takes bribe he is liable under S. 161. 51 A. 467=1928 A. 752.

2 S. 161 is not confined to cases in which gratification is taken for doing an official act. It is an offence if a public servant accepts a reward for rendering or attempting to render any service to any one with any public servant as such. 51 M. 86.

3. Motive of accused must relate to official act. What is departmentally reprehensible merely is distinct from what is criminal. A Karnam taking bribe for getting darkhast commits no offence. 1924 M. 851=84 I. C. 940=47 M. L. J. 662.

4. Where it was not within the powers of the public servant to show any favour to the person offering the bribe, the latter is not guilty under S. 161—109. 1921 C. 344=64 I. C. 369.

5. A public servant taking money as a motive or reward for purposes mentioned in the section, is guilty. 39 I. C. 805, 1925 N. 313.

6. If a man in the vain hope of getting a public servant to reconsider a question, as to which that public officer is *functus officio* offers a bribe, he commits no offence. 1929 M 756=119 I. C. 315=30 Cr. L. J. 1055=1929 M. W. N. 695.

7. Statement that Government servant worked for a candidate at an election for money is not charging him with bribery, as such work is not in the discharge of his duties It is on the contrary prohibited. 6 P. 224=27 Cr. L. J. 1090.

8. Offence is committed in giving bribe to a finger print expert to make him give favourable evidence. 28 Cr. L. J. 717=69 I. C. 445.

9. It is necessary to prove that public servant possesses power to show favour. 1921

Bribe—(*contd.*)

C. 344=23 Cr. L. J. 1=64 I. C. 369.

10. Receiving money for doing an unofficial act would not bring the case within S. 161. Thus where a chawkidar discovered a widow in the company of a man under suspicious circumstances at night and he purchased his silence. 1883 A. W. N. 179.

11. Plea of taking gratification for public object or charity is no defence. 1925 N. 313 =26 Cr. L. J. 1467, 21 B. 517.

10. In election. *See* Election.

11. In kind.

1. Gratification in S. 161 is not restricted to pecuniary gratification or gratification estimable in money. 1923 C. 44=67 I. C. 818.
2. A Patwari taking grains as consideration for showing favour to the giver in discharge of his official function, is guilty. 2 N. W. P. H. C. R. 148.
3. A Subordinate Judge went in company with a litigant who had a case in his court to a cloth shop and accepted a present of cloth which was paid for by the litigant to gain favours with the Judge in his suit, the Judge was guilty of taking bribe. 27 Bom. L. R. 120, 29 Bom. L. R. 996, 18 Bom. L. R. 266.

12. Offer of. *See*—1.

1. If a public servant allows illegal gratification to be delivered, merely for completing the evidence of the bribe, the giver is guilty of abetment. 18 P. R. 1918 Cr.
2. A person offered a bribe to a Magistrate by thrusting currency notes into his hands. His defence was that he did so with a view to lay a trap to expose the Magistrate who was corrupt. Held, he was guilty. 22 M. L. T. 373.
3. The distinction between offer and an invitation for offers as recognized by Contract Act applies to Criminal law as well. 24 Bom. L. R. 534.
4. Where the accused offered Rs. 500 to a Railway goods clerk deputed to assist the Police in enquiring into frauds in the goods office, was guilty of abetment. 9 P. R. 1898 Cr.
5. The accused—a taxi-driver—was discharged. On the following day he offered Re. 1 to a Police officer as a bribe to withdraw the charge, which the Police officer had brought against him. Held, he was not guilty of abetment. 33 C. L. J. 379.
6. Where accused offered Rs 200 to the officer for getting an employment, he was guilty of abetment. 6 L. 98=1925 L. 401=88 I. C. 857=26 Cr. L. J, 1241.

13. Procedure

Where accused receives bribe on two different days, he should be separately convicted for the offences. 5 C. W. N. 332.

14. Public servant. (*Functus officio*). *See* Public Servant—6.

1. If a man in the vain hope of getting a public officer to reconsider a question, as to which that public officer is *functus officio*, offers a bribe, he commits no offence. 1929 M. 756=119 I. C 315=30 Cr. L. J. 1055, 1921 C. 344=64 I. C. 369=23 Cr. L. J. 1, 1935 Pesh. 26=36 Cr. L. J. 626.
2. A convict warder accepting illegal gratification for smuggling certain papers in the jail is guilty. 1924 B. 385=83 I. C. 342=25 Cr. L. J. 1382.
3. A person who *defacto*, though wrongly discharges the duties of an office through which he figures as a public servant, may be tried for getting bribe. (1871) 16 W. R. 27 Cr., 8 A. 201.
4. "Any other person" in S. 161 may or may not be a public servant and therefore wholly unconnected with the official act. 31 B. 335.
5. Offeing bribe to a Doctor to retain patient for a longer period falls under S. 161, as he is not *functus officio*. 1930 M. 671=126 I. C. 603.
6. Unpaid apprentice if public servant. 15 C. W. N. 319=9 I. C. 698.

15. Public servant obtaining presents. S. 165, I. P. C.

1. After a case was decided a Police officer received from the prosecutor some money

Bribe—(*concld.*)

not as a reward but as Dasturi. He was guilty under S. 165. 1 A. 530.

2. Evidence of similar transactions is inadmissible. 6 C. 655.

3. S. 165 does not prohibit a sale or purchase by a public servant at a fair price to or from a person transacting business. *Stokes, Vol. I P. 151.*

16 Sanction. *See* Prosecution of Judges or Public Servants—2.

1. Where President of a Punchayat court is charged for bribery, sanction of Government is necessary for prosecution. 1922 M. 62=65 I. C. 612.

2. Excise Officer in U. P. is removable by the Excise Commissioner and hence sanction for prosecution of bribery is not necessary. 48 A. 264=1926 A. 271.

3. A District Munsif cannot be prosecuted without sanction. 9 M. 439.

4. A Police Patel can be prosecuted without sanction. 4 B. 357.

5. A member of Municipal Corporation can be prosecuted without sanctian. 3 C. 758.

6. If a Judge has not done any act in the capacity of a Judge, no sanction is necessary. 32 M. 255.

17. Sentence.

1. A simple order to refund bribe is quite inadequate to the gravity of the offence under S. 161 (1871). 16 W. R. 74 Cr.

2. The sentence for taking bribe should be deterrant. Mere fine is inadequate. 1925 N 321=86 I. C. 469=26 Cr. L. J. 821.

3. A Civil Court peon refused to serve the summons without payment of Dasturi. Held, six months' imprisonment was not too severe. 32 C. 292.

18. Similar acts.

The evidence of similar acts of bribery is not admissible. 6 C. 655.

19. Taking gratification to influence public servant. Ss. 162,—163, I. P. C.

1. A person, who accepts for himself or for some other person, a gratification for inducing, by corrupt or illegal means, a public servant to forbear to do a certain official act, is punishable under S. 162, I. P. C. 63 P. L. R. 1918, 3 W. R. 19, even if he did not actually influence him. 3 W. R. 10.

2. To admit solicitation of a bribe by a third person without the privity or connivance of the public servant concerned, as an excuse for giving a bribe to such public servant is an absolute absurdity. (1895) 1 U. B. R. 158.

3. A conviction under S 162, I. P. C, cannot be had if the evidence does not show the person or persons from whom the gratification was obtained or the public servant, to be influenced. (1865) 3 W. R. 69 Cr.

20. Unvoluntary.

1. Where the payment of bribe has not been voluntary, very slight corroboration is sufficient to make the evidence of accomplice admissible against the receiver. 1935 B. 230=156 I. C. 615=36 Cr. L. J. 968.

2. Money paid for obtaining release of person wrongfully confined by Police is not bribe but is extortion 27 C. 925.

BRIDGE.—INJURY TO. S. 431, I. P. C. *See* Mischief—8

BRIEF.—NON-ACCEPTANCE OF. *See* Legal Practitioners' Act., S. 13.—XXI.

BRITISH INDIA. *See* Jurisdiction—11.

1. Arrest outside. Ss. 54, 82, Cr. P. C.

1. Police in British India can arrest without warrant a British subject committing outside British India any of the offences enumerated in the first schedule of Extradition Act. 7 Bom. L. R. 463.

2. An arrest in British India by Police of a Native State of a person suspected to have committed crime in the Native State is illegal. 29 A. 377.

3. The arrest of a person at a Railway Station in a Native State (Gawalior) on a charge of an offence *committed in* British India is illegal. 1 L. 406, 25 C. 20.

British India—(contd.)

2. Jurisdiction.

1. Aden and Laccadive islands are within British India. 13 M. 353.
2. Andaman and Nicobar islands are within British India. 9 B. 244.
3. Ajmer and Mewar are within British India. 9 B. 244.
4. Native States and tributary Mahals are not within British India. The Criminal Procedure Code does not apply to Rajkot. 10 B. 186, or to Civil Station of Wadhwan. 37 B. 152, or to Moyurbhunj, 8 C. 985, or to Keonjhar. 16 C. 667 or to the lands occupied by Hyderabad State Railways. 25 C. 20.
5. British Courts have jurisdiction to proceed with the trial of an offence committed in a territory which was British India at the date of the offence and of the commitment but was transferred to Native State before the case came on for trial. 34 A. 118, 34 A. 451.
6. British appellate courts have jurisdiction to hear appeal if the transfer of territory took place after a conviction. 33 A. 578.

BROKER.

1. Breach of trust by. *See* Breach of Trust—10.

2. Misappropriation by. *See* Criminal misappropriation—3.

BRUISES. *See* Wound—137.

BUGGERY. *See* Unnatural offence.

BUILDING. Ss. 442—380, I. P. C.

1. A courtyard bounded by walls with no door is not building. 1924 L. 623=771 I. C. 809, 1925 L. 279 (2)=84 I. C. 863, 11 P. W. R. 1919, 18 P. R. 1905 Cr.
2. A courtyard with walls around and a door which is secured is a building. 29 Cr. L. J. 875=1929 Sind 17 (2), 1926 L 28, 35 P. R. 1879, 1925 L. 117 foll. 57 P. R. 1887, 28 P. R. 1905, 24 P. R. 1914 Cr, 11 P. W. R. 1919 Cr. Dist.
3. A fencing which is a means of merely preventing ingress or egress is not a building or house. 1927 M. 343=100 I. C. 120=28 Cr. L. J. 248.
4. A *wehra* used for custody of property is building. 1925 L. 117=86 I. C. 337, 35 P. R 1879, 10 P. R. 1879. A courtyard enclosed by low walls on three sides only is not a building. 84 I. C. 863.
5. A thatch hut built for residence is a building used as a human dwelling. 36 I. C. 584, 1 P. R. 1881.
6. The determining factor to find out whether a place is a human dwelling or not is the nature of structure and the purpose for which it is intended to be and was used. 1930 L. 414=121 I. C. 427=31 Cr. L. J. 268, 1929 Sind 17=111 I. C. 459.
7. Cattle enclosure having a wall on one side and thorn hedge on other sides is not "building" 24 P. R. 1914 ; 57 P. R. 1887. 2 A. W. N. 224. But if it is walled all round, it is "building". 6 N. W. P. H. C. R. 307.
8. A Railway carriage or brake van is not building. 1 Weir 436, 10 P. R. 1879. *See* 23 A. 806.
9. Entering cattle pen is not a house trespass. 28 P. R. 1905 Cr.
10. An unrooted '*wara*' with a small gate locked, adjoined the room occupied by accused and was an integral part of the house, is a "building". 6 L. 463=1926 L. 28, 35 P. R. 1879 foll. 208 P. L. R. 1915 and 56 P. L. R. 1919 Dist.
11. Open space adjoining a house, surrounded by thorns, with no door to prevent entry is not a building. 1928 A. 607=29 Cr. L. J. 766, 14 P. R. 1876.

BUILDING LIKELY TO FALL. *See* Public Nuisance—6.

BULL. *See* Animal.

1. Sacred bull liberated according to Hindu usage is movable property, capable of being subject of 'mischief'—S. 425, I. P. C. 34 P. R. 1888.
2. The sacred bull is not in "possession" of owner to make him liable under S. 289, I. P. C. 32 P. R. 1889, 5 P. R. 1904.

Bund.

BUND.—FIGHT OVER. *See* Right of private defence—10.

In case of fight over the bund, when one party wanted to protect it and the other to cut down and death is caused from injuries to several assailants while protecting the bund, the offence falls under S. 326, I. P. C. 1929 P. 523.

BURDEN OF PROOF. Ss. 102—106, I. E. Act.

1. On accused. *See* Explanation by accused—1.

1. Accused must prove the plea of insanity. 1924 A. 186 (2), 50 I. C. 991.
2. Accused should prove exceptions on which he relies. 1 P. R. 1888, 27 P. R. 1887, 4 P. R. 1889, 1923 A. 327 (2)=45 A. 329, 3 L. 144=1922 L. 1, 1928 N. 58=105 I. C. 820, 1928 L. 162=30 P. L. R. 371=108 I. C. 189.
3. Burden is on accused to establish circumstances justifying exercise of righ of private defence. 41 P. R. 1884, 1927 L. 786=104 I. C. 454. It may be established from prosecution evidence. 1923 A 327 (2)=45 A. 329=71 I. C. 689
4. Where an accused is found at midnight in the house of another, the onus is on him to prove that he went there with honest intentions. 37 A. 395, 40 A. 221.
5. Accused must prove loss of power of self-control before claiming benefit of exception (1) to S. 300, I. P C. 33 P. R. 1884, 1924 L. 733=81 I. C. 717.
6. Where all circumstances went to show that accused's intention was to employ a girl of prostitution, the onus is on him to prove that she intended to wait till the age for majority. 1922 C 539=71 I. C. 232.
7. The onus is on accused to give explanation when the alternative theory of his guilt is a remote possibility. 43 I C. 605.
8. The burden of proving facts within the knowledge of a person that a parcel of cocaine was believed to be one of toys is on that person. 20 I. C. 600.
9. In criminal breach of trust when receipt of money by accused is proved, the onus is on him to show that he has not converted it for his own use. 1927 C. 409=101 I C. 597=28 Cr L. J. 469.
10. The onus that it was a game of skill is on the accused. 23 I. C. 484.
11. Accused is not bound to prove his defence. 74 P. L. R. 1900, 121 P. L. R. 1904, 21 P R 1890, 28 P. L. R. 1906, 90 P. L. R. 1909, 7 P. L. R. 1911.
12. Where from the prosecution, an exception is proved, accused need not prove it. 81 I C 901=1925 N 37=25 Cr. L. J 1077.
13. Although the onus of establishing an exception is on the accused, it does not follow that the circumstances together with the accused's statement cannot be sufficient to establish the exception. 1927 A. 119=27 Cr. L. J. 1395.
14. Where a thief was killed with a *lathi* blow, the onus is on the person giving blow that death was justifiable homicide. 1930 O. 408=32 Cr. L. J. 44.
15. Where a property is entrusted to a servant, it is the duty of servant to give a true account of what he does with it and if he cannot give account, reasonable inference is that he misappropriated it. 26 Cr. L. J. 267=1925 R. 47.
16. Where a set of facts is proved from which only one reasonable inference can be drawn, the accused must, if he wishes to escape the consequence of that inference, offer an alternative inference which can compete with the other. 10 P. 590=1931 P. 384=33 Cr. L. J. 111=12 P. L. T. 864=133 I. C. 81.
17. If evidence is unreliable, the accused is under no obligation to suggest any other way in which the deceased might have met his death. 1930 M. W. N. 1211.

2. On Prosecution.

1. The onus of proving the guilt of accused beyond reasonable doubt is on the prosecution 56 I. C. 849.
2. Prosecution must exclude all explanation of facts reasonably consistent with innocence of accused. 1 P. R. 1914 Cr., 11 P. R. 1913 Cr., 136 P. L. R. 1909.
3. The onus of proving everything essential to the establishment of charge against the accused lies upon the prosecution. Every man is to be regarded legally innocent

Burden of proof—(concld.)

until the contrary is proved and criminality is never to be presumed. 4 M. 393, 9 M. 387, 7 M. 436, 17 B. 573.

4. Where intent is expressly stated as part of the definition of the crime, the onus of proving guilty intention is on the prosecution. 11 C. W. N. 91.

5. Best available evidence must be proved to discharge the burden. 1932 P. 215=11 P. 523.

6. Onus of proving age is on prosecution. 1931 L 401=32 Cr. L. J. 1041.

3. Of Exceptions. S. 105 Evidence Act. *See* Right of private defence.

1. Burden is on accused to prove exception. But he can rely on facts brought out in the case even though not found in his statement or defence evidence. 1936 N. 119, 1925 N. 37=25 Cr. L. J. 1077 and 56 C. 1013=1929 C 346 Rel on, 1934 O 485=35 Cr. L. J. 1489, 1933 L 1055, 1933 R 142=34 Cr. L. J 783, 45 A. 329, 4 C. 124.

2 Accused must prove right of self defence 154 I C 697, 8 C W. N. 714, 1933 R. 142=34 Cr. L. J 783, 1927 L. 786=28 Cr L. J. 838.

3. Burden of proving grave and sudden provocation is on accused. 20 B 215, 30 I. C. 113.

4. Accused must prove insanity 1924 A 186, 50 I C. 991

5. When an act is *prima facie* murder, accused must prove that it is only culpable homocide 1930 O 408, 25 Cr L. J. 1005, 52 I C 224. *See* 1933 L 1055, 1933 R 142=34 Cr. L. J 783

6 Accused can set up alternative plea of *alibi* and self defence 21 Cr. L J. 799=58 I. C 527, 40 A 284, 52 I C 485=20 Cr L J 661, 30 I. C 113.

7. It is not necessary that exception should have been specifically pleaded or accused should have produced evidence to establish it 58 I C 527=21 Cr L. J 799, 1930 C. 442=127 I C 263.

8. If the task of proving an exception has already been performed by the prosecution for the accused, it is not necessary for the accused to do it all over again 1925 N. 37=25 Cr. L J 1077, 11 C L R 232 *See* 1933 L. 1055=147 I C 722

4 Of facts within the knowledge of accused S 106 Ev Act

1. An accused is entitled to hold his tongue, but where the only alternative theory to his guilt is a remote possibility, it is for him to prove it. 43 I C 605=19 Cr. L. J 189.

2 When a person acts with some intention other than that which the character and circumstances of the act suggest, the burden is on him of proving that intention 22 C 164.

3. In a lurking house trespass by night accused must show that he had some lawful intention 40 A. 221 *See* 22 C 391

4 When a property is entrusted to a servant, it is his duty to give true account of what he does with it and his failure to do so raises a presumption that he misappropriated it 1925 R 47=26 Cr. L. J 267.

BURGLAR *See* House breaking—6 Right of private defence—1.

BURIAL PLACE S. 297, I P C *See* "Trespass on burial place", Religion.

BUTCHER *See* Cantonment Act, S. 213.

BUTCHER SHOP.

Opening a butcher shop is lawful but when unnecessarily or designedly offensive to a section of community it is a public nuisance 18 P R 1867.

BUYING AND SELLING MINOR *See* Prostitution, slave.

BUYING WIFE *See* Betrothal

BYELAW. *See* Local or Special Law—1

BYSTANDERS *See* Facts forming part of the same transaction S 6, Ev. Act

1. Bystanders not rescuing the injured person, the presumption is that they did not see the fight. 132 P. L R. 1915.

Bystanders—(concld.)

2. Witness went to spot after the occurrence and heard bystanders saying that four men have murdered 'A', is inadmissible. 1925 L. 578=91 I. C. 812.

3. A statement by a bystander (alleged eye witness) made to a person who came to the scene of occurrence after the murderers had left cannot be proved against the accused for showing that they were mentioned as murderers. 226 P. L. R. 1915=34 P. R. 1914 Cr.

4. Hearsay evidence of the statement of a bystander as to an occurrence would be admissible if it was made during transaction or shortly before or after it as to form part of the same transaction. 4 C. W. N. 265, 10 C. 302 Dist.

5. Statement of the raped girl to her mother, after the accused left is not relevant under S 6. 1930 C. 132=50 C. L. J. 524, 1930 L. 337=32 Cr. L. J. 63.

6. Evidence of a witness who was not present at the occurrence but only deposed to circumstances after occurrence is not admissible to prove facts relating to it. 1925 L. 578=26 P. L. R. 674=91 I. C. 812=7 L. L. J. 408.

7. What a witness tells at the time of the occurrence in respect of the occurrence itself is *res gestae* under S. 6 but a statement with regard to an event which took place a year ago is not. 1921 L. 258=4 L. L. J. 491.

C.

CANAL WATER—FIGHT OVER.—*See* Right of private defence—10.

CONTONMENT ACT (II OF 1924).

S. 118.

1. The giving of offence by the exposure of the person is not a necessary ingredient of the offence under S. 118. The offence is complete if the explosure is wilful or indecent and in a public place. 1926 A. 263=91 I. C. 539=27 Cr. L. J. 107.

2. A "*Takhtposh*" or moveable wooden platform cannot be held to be "earth or material of any description or any offensive matter or rubbish" within the meaning of clause (*c*), S 118 (1). 1927 L. 647=93 I. C. 411=28 Cr. L. J. 683.

S. 184.

It is not proper to substitute a conviction under S. 268 for one under S. 184. 1934 O. 29.

S. 213.

A butcher who has no licence, actually imported meat in large quantities for more than could be required for his personal use and distributed it, is guilty even if there was no evidence that he actually received any money. 1929 Sind 150.

S. 236.

1. Where executive officer was not the person importuned, complaint by him is bad. 1933 L. 590.

2. A Magistrate can convict a male of the offence of loitering for the purpose of prostitution under S. 236 (1). 1926 B. 227=93 I. C. 1051=27 Cr. L. J. 555.

S. 268.

S. 268 Provides for penalty for continuing or contravention. 1934 O. 29.

CAPITAL SENTENCE. *See* Murder—78.

CARBON COPIES OF STATEMENT. *See* Evidence—42.

CARRIER *See* Breach of trust—11.

CASH. *See* Disposal of property—3.

Cash has no earmark and cannot be identified, when theft is committed with respect to it. 1926 Sind 17=89 I. C. 259=26 Cr. L. J. 1315.

CASHIER.

The position of cashier is that of a trustee. 19 P. R. 1908 Cr.

CASTE. *See* Cheating by personation—4. Defamation—40.

1. Excluding complainant from caste owing to religious differences is not punishable

Caste—(*concld.*)

under Ss. 290, 500, I. P. C. 3 P. R. 1883 Cr., 1923 M. 587, 1923 R. 16.

2. Telling a Hindu that he is outcaste amounts to defamation. 26 I. C. 460.

CASTE PEOPLE. *See* Witness—11.

CASTOR OIL. *See* Poison—5.

CATTLE-PEN. *See* Building.

Entering a cattle-pen is not a house trespass 28 P. R. 1905 Cr.

CATTLE TRESPASS.

The liability of owner for cattle trespass does not depend upon his absence or presence at the time of trespass but lies expressly or impliedly permitting the cattle to trespass. 16 P. R. 1905 Cr

CATTLE TRESPASS ACT (1 of 1871).

S. 10.

1. A lessee is the occupier of land under S. 10 and can seize cattle. 50 I. C. 1006, 32 I. C. 654, 3 P. R. 1916 Cr.
2. A person in exclusive possession of land is "occupier." 3 P. R. 1916, 32 I. C. 654
3. Watchman can seize cattle under general instructions of the cultivator. 1922 P. 317, 31 I. C. 372
4. Seizing of cattle for getting arrears of rent for grazing is illegal and amounts to attempt to commit theft 41 I. C. 817, 22 C. 1017.
5. The right to seize cattle subsists while the cattle are trespassing. 1925 N. 50 and does not extend to following them to shed 1934 N. 258
6. The occupier of the land has the right to seize trespassing cattle and the owners of cattle who forcibly oppose the seizure are guilty under S 24, although they claim to be owners of the land in question 3 P. R. 1916 Cr.

S 11.

1. The seizure by a Forest Officer of cattle found straying in a reserved forest is legal though no damage is actually done. 22 B. 933.
2. Cattle are not liable to seizure by P. W. D. officers unless they were trespassing on public property of the Department. 24 M 318
3. It is not necessary that the person who seizes or causes the cattle to be seized must himself take them to the pond. 12 P. R. 1882.
4. Legality of seizure does not depend on actual damage being caused. 1934 S. 34 = 35 Cr. L. J. 830, 1930 O. 250 Ref., 1920 P. 832 Dist.

S 19.

Sub-Inspector of Police purchasing pony which had been impounded is guilty under S. 19, Cattle Trespass Act and S. 169, I P. C. 16 W R 52

S 20

1. It is not necessary that a Magistrate who is generally empowered under the Cr. P C. to receive complaints, should be specially authorized by District Magistrate to receive complaint under the Cattle Trespass Act. 50 M 841, 44 B. 42.
2. A Magistrate receiving complaint cannot transfer it under S. 192 (1) to any Magistrate. 26 P. R. 1879, 34 C. 926, Ref. 44 B. 42.
3. When the cattle are in the custody of another, the owner not acquainted with the facts of the case cannot complain. 5 Bom. L. R 205.
4. A suit for malicious prosecution under this section lies 37 I. C 374.
5. A complaint under S. 20 by a wrong person is nullity and strikes at the root of trial. 1931 N. 98 = 132 I. C. 457, 4 P. R. 1917 Cr., 28 P. R. 1883 Cr., 14 I. C. 671.
6. A servant actually present at the time of seizure might make a complaint under S. 20, when the owner himself is unable to make a complaint or when there is no agent, otherwise the complaint should be by owner or agent. 1931 N. 98.
7. A complaint after 10 days is time barred 38 C. W. N 1072.

Cattle Trespass Act—(concld.)

S. 21.

It is not necessary that the agent must be an eye witness. He may act on what has been told him. 1923 N. 156=84 I. C. 551.

S. 22.

1. Compensation may be awarded *to owner of cattle* and *not the agent filing complaint.* 1929 N. 152. Pleader's fee cannot be awarded. 1933 M. 502.
2. Proceedings under S. *22* are not strictly criminal but quasi-civil and a Magistrate can summarily assess compensation. 14 C. 175.
3. Where no compensation is claimed and no allegation as to loss is mentioned in the complaint, Magsitrate cannot award it. 1923 P. 292=72 I. C. 71.
4. Compensation need not be claimed in the complaint. 1928 M. 369. *See* 1930 N. 149.
5. Grazier of cattle is an agent within S. 22. 1929 N. 152=116 I. C. 424.
6. Municipal servant illegally impounding cattle is guilty under S. 22. 44 I. C. 592
7. Compensation awarded under S. 22 is not a fine and therefore appeal lies under S. 413, if the amount is less than fifty. 46 B. 58=63 I. C. 160, 32 M. 214 *Cont.* 19 M. *238*, 15 C 712, *10 B. 230, 31 M. 133.*
8. Suit for damages for illegal seizure is not barred by this section. 16 C. 159.
9. When two persons are convicted, an order not specifying the amount of compensation to be paid by each is not bad. 14 C. 175.
10. A person cannot seize cattle licensed to graze by Lambardar, although it was given without the consent of all the co sharers. 84 I. C. 862=1923 N. 336.
11. S. 22 does not apply when there is no illegal seizure or detention. 22 C. 139, 22 C. 669.
12. No sentence of fine can be passed under S. 22. 27 C. 992, 25 P. R. 1878.
13. *The compensation is not one for damages to reputation.* 37 *P. R. 1878.*
14. A sentence of imprisonment in default of fine is illegal. 1930 N. 149.
15. Imposition of penalty in excess of the sum awarded to the complainant as compensation is illegal. 36 P. R. 1878, 5 P. R. 1880.

S. 23.

No appeal lies from an order under S. *23. 22* P R. *1886.*

S. 24.

1. Rescuing cattle from cattle pound by opening the lock of the door is an offence under S. 24, C. T. Act and Ss. 378, 441, I. P. C. 1927 M. 343=100 I. C. 120.
2. It is necessary to prove that cattle were liable to seizure. 1926 A. *276*=*92* I. C. 697 (1)=27 Cr. L. J. 313, 50 I. C. 1006, 57 I. C. 464.
3. Plea of title to land will not prevail against a true owner. 3 P. R. 1916 Cr.
4. Driving cattle by shouts and cries constitutes rescuing. 1923 M. 608.
5. For a conviction under S. 24 there must be finding of trespass and damages. 43 I. C. 445, 43 I. C. 618, 50 I. C. 1006.
6. If cattle were not liable to be seized, their rescue is no offence. 24 M. 318.
7. Separate punishment under the Act and the Penal Code is illegal. 41 I. C. 445.
8. An offence under this section is not compoundable. 42 A. 202.
9. Cattle strayed into the field of accused, and complainant tried to rescue them by force and got a grievous hurt, held that the accused exercised the right of private defence. 86 I. C. 988=1925 Pat. 762=26 Cr. L. J. 924.

CAUSING DEATH BY NEGLIGENCE. *See* Death by Negligence, S. 304 A. Penal Code.

CAUSING MISCARRIAGE. *See* Abortion.

CEREALS AND GRAIN. *See* Indentification of things.

Certificate.

CERTIFICATE.

1. **False.** *See* Forgery—14, Cheating—19.
2. **Doctor's.** *See* Doctor's certificate.
3. **Of Magistrate as to examination of accused.** Ss. 164, 364, Cr. P. C.
   See Confession or statement (Recording of)—3.
4. **Of Police Agent.** S. 188, Cr. P. C.

1. The certificate of Political Agent is necessary for prosecuting a person in British India for an offence committed outside British India, otherwise trial is illegal. 24 A. 256, 19 A. 109, 41 A. 452, 24 B. 287, 13 M. 423.
2. The defect cannot be cured even if the Magistrate was himself the Political Agent. 13 M. 423, 5 M. 23.
3. An agreement between a Native State and British Indian authorities to arrest people found gambling in each other's territories does not take the place of certificate. 42 A 89=52 I. C. 668.
4. Want of certificate is not a fatal defect, if accused is not prejudiced. 35 P. R. 1888, 30 P. R. 1889, 4 P. R. 1902 *Cont.* 24 A. 256
5. But if the defect was observed and objected to by the Sessions Judge, the commitment should be quashed. 5 L. 416 (420), 11 P. R. 1899.
6. There is nothing illegal if the certificate is produced just before framing of charge. 47 B. 907 (1911), 12 Bom. L. R. 667, 1925 S. 88=81 I. C. 108.
7. The Magistrate is not confined to the charge in the certificate. 33 A. 514.
8. Certificate once given cannot be revoked. 13 Cr. L. J. 537.
9. The framing of an alternative charge under Ss. 379 and 411, I. P. C., does not confer jurisdiction on the Magistrate when offence under S 411 is committed in a Native State without the certificate of the Political Agent. 54 B. 171.
10. The word "certificate" does not occur in S. 188, and there is no direction of signing it by any particular person. The convenient manner of proving it is the production of a document signed by the Political Agent 7 L. 468=1926 L. 609.
11. The certificate signed by Under Secretary to the Political Agent is insufficient. 7 L 468=1926 L. 609.
12. A commitment without a certificate is illegal. 7 L. 396=1926 L. 582, 5 L. 416.
13. The defect as to absence of certificate of Political Agent is not curable by the subsequent production of the same. 1925 L. 185=5 L 416=92 I. C. 170.
14. If an offence of forgery is committed in a State, the trial and conviction of the accused is vitiated if without the sanction of the Political Agent or the Local Government. 1930 Pat. 501=122 I. C. 155=31 Cr. L. J. 364.
15. Kidnapping is not a continuing offence or when it was committed in a Native State, the British courts have no jurisdiction without a certificate. 41 A. 452.
16. The offence committed on High Seas does not require a certificate, as there is no Political Agent there. 41 B. 667.
17. The proviso to S. 188 is universal and is not restricted to Native States in India. 14 Cr. L. J. 298
18. An Indian British subject accused of an offence in a Foreign State cannot be tried except on the certificate of the Political Agent or with the sanction of Local Government. 1932 C. 299=136 I. C. 598=33 Cr. L. J. 322.
19. S. 188, Cr. P. C, overrides S. 179, where S 188 is applicable. 1932 C. 465.
20. British Vice Consul in foreign territory is not Political Agent within the meaning of S. 188 Certificate of Local Government is sufficient. 1934 Sind 96.
21. Absence of certificate under S. 188, Cr. P. C. can be cured under S. 537, Cr. P. C. 8 if it was granted subsequently. 1934 L. 827, 35 P. R. 1888 Cr., 30 P. R. 1889 Cr., 4 P. R. 1902, 11 P. R. 1899 Cr. *See* 5 L. 416, 7 L. 396, 13 M. 423, 19 A. 109.
22. Under S. 188 a court in British India cannot try an offence by virtue of the terms

Certificate—(*concld.*)

of S. 179, merely because part of the consequences have ensued within its jurisdiction. The certificate of Political Agent is necessary. 1935 M. 326=68 M. L. J. 415.

23. Certificate of Political Agent is necessary for trial of dishonest retention of stolen property in a foreign territory. 1933 M. 461=34 Cr. L. J. 285.

24. Dacoity was committed in British India but murder was committed while carrying away stolen property, in a Native State. Held, Indian British Court had jurisdiction to try offence under S. 396 without a certificate. 1933 L. 977=147 I. C. 2.

5. Of Public Prosecutor for prosecuting an approver. S. 339, Cr. P. C.

1. The absence of certificate by the Public Prosecutor for the prosecution of an approver that he has not complied with the conditions of the pardon, vitiates the trial. 5 L. 379=1925 L 15=84 I. C. 61=26 Cr. L. J. 237.

2. An approver cannot be prosecuted at the instance of a suggestion by the Presiding Judge Certificate by Public Prosecutor is the sole basis of the prosecution. 1925 B. 135=85 I. C. 149=26 Cr L. J. 469.

3. When the approver was committed without a certificate by the Public Prosecutor and it was provided at the trial before Sessions Judge. Held, that what was forbidden by S 339 is the trial not the enquiry and therefore commitment was *not* irregular. 3 R. 55=1925 R. 219=92 I. C. 430.

4. No sanction under S. 339 (3) for giving false evidence can be granted, unless a Public Prosecutor gives a certificate to the effect that the approver has not complied with the conditions of the pardon. 1929 O. 527=121 I. C. 83=31 Cr. L. J. 204.

5. S. 339 (1) does not cancel S. 476, it merely imposes an additional condition as essential to the institution of a prosecution for perjury by an approver 'and *even* when the condition is satisfied, the prosecution can still be initiated only on a complaint by the Sessions Court or High Court. 1927 N. 189=28 Cr. L. J. 645.

6. A sanction to prosecute an approver who made contradictory statements should not be refused unless it is shown that he made the statement under undue influence 1924 L. 90=76 I. C. 398=25 Cr. L. J. 174.

7. *Production of certificate in the Sessions Court in an offence* under S. 396, I. P. C. is sufficient. It need not be produced in the Court of committing Magistrate, as the trial commences in Sessions Court only. 1935 O. 116=153 I. C. 596=1935 Cr. C. 206, 1919 M. 190=20 Cr. L. J. 514=51 I. C. 674 and 1925 R. 219=3 R. 55=27 Cr. L. J. 254 Rel. on.

8. Public Prosecutor need not be Public Prosecutor when granting certificate 1936 L. 409=162 I. C. 969.

9. Public Prosecutor conducting the case can grant certificate. 1936 L. 409.

10. Police must chalan persons against whom there is evidence. They have no right not to charge them because they require him as witness. 1935 B. 186=37 Bom. L. R 179.

CHALAN. *See* Incomplete chalan, Cognizance of offence—20, Investigation.

A police chalan is a police report of facts *constituting an offence under Cl (b) S. 190*, and a Magistrate can take cognizance upon it. 8 P. R. 1901 Cr., 22 P. R. 1900 Cr.

CHANCE WITNESS. *See* Witness—12

CHANGING GROUNDS BY PROSECUTION. *See* Duty of prosecution—3.

CHARACTER. *See* Bad character, Good character.

Witnesses to character may be cross-examined. *See* S. 140, Evidence Act.

CHARGE. S. 225 to S. 234, Ss. 210 and 254, Cr. P. C. *See* Distinct offences—2.

1. Addition of Ss. 227-226, Cr. P. C.

1. Where the facts disclosed by the Magisterial enquiry warrant a charge not framed by the Magistrate, the Sessions Judge can frame an additional charge. 71 I. C. 593, 30 I. C. 125, N. F. 32 C. 22, 54 I. C. 409. *See* 1924 C. 625.

2. Accused was committed for murder, the Sessions Judge *could not add a charge* under S. 325 20 P. W. R. 1909 Cr.

Charge—(contd.)

3. The Sessions Judg's power to add charge is not fettered by the fact that a complaint in respect of it had been dismissed by the Magistrate. 16 B. 414, 36 C. 573, *Cont.* 1927 S. 28. 19 B. 51, 19 B. 749, 27 B. 135, 1927 P. 370.
4. If a charge is added or altered after the close of prosecution and defence evidence, it is prejudicial to the accused. 31 B. 218.
5. Sessions Judge can add charges under Ss. 497, 498, I. P. C., where the complaint is not only of assault but under those sections as well. 48 C. 1105=64 I. C. 280 Dist. 2 P. 708=1924 P. 283=77 I. C. 734, 1926 N. 426=95 I. C. 471, Ref. 1923 L. 163=72 I. C. 593, 1923 N. 260=72 I. C. 361, 1926 M. 296.
6. When complaint contained charges under Ss. 352, 504, I. P. C., Magistrate could not add a charge under S. 500 (Defamation) on the statement of the complainant. 10 A. 39, Dist 1926 R. 53, Ref. 1924 M. 340=81 I. C. 129, 6 L 375.
7. Magistrate can add a charge for any offence disclosed by the facts though not mentioned in the certificate under S. 188, Cr. P. C. 33 A. 514.
8. Where a person was charged with murder of one person and causing hurt to another, the Sessions Judge can add a charge of murder also. 1924 C. 625.
9. Sessions Judge can add charges under Ss 326, 325, Penal Code, for causing injuries to the prosecution witnesses, when the original charge was for murder. 1924 L. 413=71 I. C. 593, 9 S. L. R. 37 Foll. 32 C. 22, 4 I. C. 903 Dist.
10. If the effect of alteration is to deprive a person of right to be tried by Jury, it is bad in law. 5 P. 238=1926 P. 253=27 Cr. L. J 512.
11. Sessions Judge cannot add a charge, on which prosecution led no evidence. 97 I. C. 1041=1927 Sind 28=27 Cr. L. J. 1217.

2. Alteration of.

1. Magistrate cannot alter a charge under S. 501 to one under S. 500, I. P. C., when there is no formal complaint by the person aggrieved for the latter offence. 18 P. R. 1889, 8 P. R. 1891 Cr., 1923 O. 4=69 I. C. 81, 35 P. R. 1905.
2. A charge of rape cannot be altered into one for adultery. 29 C. 415, 2 P. R. 1918=44 I. C. 204, 30 C. 910, 6 L. 375.
3. Where a prisoner has been extradited for dacoity, the Court may alter the charge of dacoity into theft. 17 B. 369.
4. A Court cannot alter charge in a compoundable offence after the presentation of compromise petition 29 P. R. 1914.
5. A Court cannot alter charge after the verdict of Jury. 8 B. 200, 9 A. 525, 12 A. 551, 16 B. 414, 1924 C. 625=83 I. C. 485.
6. A charge under S. 395, I. P. C., cannot be altered into one for robbery without hearing evidence. 13 I. C. 783.
7. Alteration of charge at a late stage would prejudice the accused in his defence. 31 B. 218, 32 P. R. 1910. *See* 131 I. C. 461.
8. Application for alteration of charge must be made immediately after the original charge. 27 C. 839 and the Magistrate cannot postpone passing order on this. 16 B. 414.
9. It is not incumbent on the court to re-examine the accused after the alteration of the charge. 1 P. 54, 46 M. 449=1923 M. 609=73 I. C. 163.
10. An illegal conviction under S. 30 (*a*), Burma Excise Act, cannot be altered to a conviction under S. 37. 7 R. 316=1929 R. 256=30 Cr. L. J. 990.
11. If charges, as framed, disclose no offence, it is illegal and prejudicial to the accused to alter or amend the charge and convict him thereon without giving him opportunity to meet it. 54 I. C. 409.
12. Appellate Court cannot add a charge under S. 143 to charges under Ss. 451, 426, as the former imposes a constructive liability for the acts of others. 31 I. C. 337.
13. If the alteration has not been explained and read to the accused, the conviction is illegal. 1926 A. 227=91 I. C. 888=27 Cr. L. J. 152, 88 I. C. 1.
14. A Magistrate at the time of writing judgment discovered that charges under Ss. 504

Charge—(*contd.*)

and 352 could not be tried together, as the occurrences were different. He struck off a charge under S. 352 and asked the accused if he wants to recall the witnesses and convicted him under S. 504. Held, it is illegal. 90 I. C. 914= 1925 M. 1065=49 M. L. J. 93=26 Cr. L. J. 1618.

15. An accused charged under S. 412 (triable by Jury) can be convicted under S 411 triable with the aid of assessors, though not separately charged. 1926 B. 134= 27 Cr. L J. 650=27 B. L. R. 1416=94 I. C. 602, 26 M. 243, 5 P. 238.

16. Where accused is challaned under S. 341, I. P. C., the trying Magistrate can charge him under S. 341 as well as under S. 506. 1931 O. 73=32 Cr. L. J. 330.

17. A Court can add charge at any time before the pronouncing of judgment and the discretion conferred by statute cannot be whittled away by ruling. 131 I. C. 461=1931 M. 439=32 Cr. L. J. 756=1931 Cr. C. 487.

18. S. *226 does not empower the Sessions Judge to add in the existing charge* A charge under Ss 497, 498, I. P. C., cannot be added to a charge under S. 366, I P. C, by the Sessions Judge. 134 I. C. 314=1931 C. 524=32 Cr. L. J. 1135.

3 Altered charge requiring sanction. S. 230, Cr. P. C.

1. If sanction is obtained for substantive offence, no fresh sanction necessary for abetment of the same 30 C. 905.

2. The fact that sanctioning authority is of opinion that facts constitute an offence under one section, is no bar to conviction under another section. *31 P. R. 1919 Cr*

4 Alternative—

1 In a criminal trespass case one or other of intents specified in S. 441, I. P. C. is sufficient. 5 P. R. 1886 Cr. *See* 12 P. R. 1906 Cr, 42 P. R. 1881, 75 I. C. 292, 17 P R 1908 Cr, 96 I. C. 871, 73 I. C. 527, 81 I 239.

2. An alternative charge in respect of two contradictory statements can be framed only when the prosecution is unable to prove which of the two statements is false. 27 P. R 1890, 32 P. R. 1888, 71 P. L. R. 1904.

3 When the conviction is in the alternative, Court can pass the maximum sentence provided for the lesser of the two offences. *63 P. L. R. 1903.*

4. There is no misjoinder in charging an accused in the alternative with the main offence (murder) and under Ss 201 or 203. 1930 M. 870, 1925 Sind 306.

5. If the age of the girl is in dispute, an alternative charge for abduction and kidnapping is not irregular. 57 C 1074

6 Alternative charges under Ss. 395, 457, Penal Code, are not illegal, 57 C. 801.

7 Alternative charges under S 201, Penal Code, and S. 52, Post Offices Act, are legal 1930 L 460=129 I. C 760=1930 Cr. L. 564.

8 Alternative charge under S. 380, I. P. C. and S. 52, Calcutta Police Act, is legal 45 C 727, 50 C. 564=1923 C. 596=24 Cr. L. J. 372.

9. Alternative charge under S. 16, Motor Vehicles Act and S. 338, I. P. C., is legal. 2 P. L. T. 31.

5 Amendment of—S 227.

1. Amendment of charge by Sessions Judge after assessor's opinion is illegal. 33 P. R. 1916 Cr

2 A Magistrate amending charge should *not write over the original charge.* 26 I. C 306

3. An illegal charge, *e. g.*, of four offences cannot be amended by striking out one of the offences. 29 M. 569, 49 C. 555

4. An amendment of charge by Sessions Judge which does not prejudice the accused is legal 25 I. C. 630.

5. A Court can amend the charge, although accused was not summoned under that section. 1925 C. 579=84 I. C. 446=26 Cr. L. J. 302

6. Sessions Judge should *compare the charge sheet and amend it using so far as possible* the words of the section. 91 I. C. 233=1926 O. 245=27 Cr. L. J. 57.

7. Amendment of charge from S. 304 to S. 302 but the substance of the charge being

Charge—(contd)

the same, the trial is illegal and S 537 does not cure it 1935 P 431

6 Contents of *See*—21

7 Conviction for different offence for which charge not framed S 237, Cr P C

1 Accused charged with substantive offence canbe convicted of abetment 49 B 84, 59 I C 913, 1930 N 145=113 I C 881, 23 M L J 722, 33 M 264, 1929 C 807 =50 C L J 472, 42 C 1094, 49 A 120

2 A person charged under Ss 302—201, Penal Code, can be convicted under S 201 only 96 I C 867, 1925 P C 130

3 A person charged and tried under S 411, I P C may be convicted under S 379 (Theft) 1888 A W N 116 and *vice versa* 17 M L J 219

4 A person charged under S 406 may be convicted for attempt to cheat 12 B H C R 1

5 A person charged under S 380, I P C may be convicted under S 54 A of Calcutta Police Act, although no charge was framed 50 C 564

6 The offences must be cognate offences and not distinct like murder and theft 4 L 373=1924 L 109=25 Cr L J 385, 1888 A W N 95

7 A person charged with rape cannot be convicted of kidnapping 8 Bom L R 120

8 A person charged under Ss 149 and 325, I P C cannot be convicted under S 325 34 C 698, 41 C 662, 16 C W N 1077 *Cont* 47 M 746

9 Appellate court can convict the accused under S 423 Cr P C for an offence, though he was not charged with it 26 C 863, 41 C 537

10 A person acquitted under S 302 can be convicted on Government appeal under S 193, I P C, though he was not charged with it 52 B 385, 1927 A 75

11 A person charged with an offence can be convicted of attempt to commit the same 1924 C 18=82 I C 545

12 A person cannot be convicted for greater offence than that with which he is charged, whether on appeal or in the original Court 69 I C 628

13 A person charged with murder can be convicted under S 201 without a further charge being made against him under that section 10 L 213 7 L 84=1926 L 88 =94 I C 901, 6 P R 1902 Cr I P R 1904 Cr 46 C 427, 1926 A 737, 1925 P C 130 108 I C 905=29 Cr L J 457, 6 L 226 103 I C 402

14 A person charged under S 397, I P C, can be convicted under S 412 if the charge under S 397 fails for want of identification 1930 O 353

15 A person charged under Ss 326—149 Penal Code can be convicted under S 326 read with S 34 7 P 758=1929 P 11=30 Cr L J 205

16 A person charged under S 452 Penal Code cannot be convicted under S 19, Arms Act 4 R 355=1927 R 32=27 Cr L J 1360

17 A person charged under S. 395 can be convicted under S 457 1927 O 196

18 On a charge of rioting a conviction under S 160 (affray) is legal 1927 N 163=99 I C 861, 1921 A 261

19 On a charge under S 304, conviction can be had under S 304 A 1924 B 450

20 If the accused is prejudiced when he is convicted for an offence for which no charge was drawn up, retrial should be ordered 1925 C 581—84 I C 708 47 M 746

21 On a charge under S 468 I P C a conviction under S 471, I P C is wrong, for the accused must have been prejudiced 1925 N 294=89 I C 395

22 A charge of murder cannot be converted into one of robbery 4 L 373

23 On a charge under S 501, a conviction under S 500 I P C is illegal 69 I C 81

24 Court can convict an accused for a lesser offence than that with which he had charged him 111 I C 573=1928 O 402

25 *On a charge of abetment of forgery conviction for using the same with guilty know*ledge cannot be had. 53 C 466

Charge—(*contd*)

26 Where a Magistrate tries the accused under the section named in the complaint it cannot be said that because another section could also be charged in the complaint therefore the trial under the sections charged in the complaint is void 1930 A L J 1422 12 M 54 and 24 M 675 Dist

27 A person charged under Ss 353—186 was proceeded against under S 186 only without framing a charge Held that the omission to frame a charge was not fatal 53 A 206=1931 A 7=32 Cr L J 313 3 A 129

28 Accused was charged under Ss 302—201 Acquittal under S 302 I P C is no bar to conviction under S 201 36 C W N 373 6 L 226 30 C W N 816

29 A person charged under S 395 cannot be convicted under Ss 448—323 I P C 132 I C 254—1931 C 414=32 Cr L J 892

30 Accused was charged under S 307 and it appeared that shot was fired to scare away the Police he may be convicted under S 506 I P C although he was not charged with it 1931 M W N 861

31 Persons sent for trial under Ss 302—149 and acquitted can be convicted under S 323 for causing hurt to the companions of the deceased 1931 L 566

32 On a charge under S 395 I P C accused can be convicted under S 458 1935 A 458 (2)

8 Conviction for abetment on charge of principal offence Ss 237—236 Cr P C

1 A man may be convicted of abetment though charged with the principal offence only 1932 C 455=36 C W N 595 49 A 120 Dist 34 C W N 198 Ref 1931 O 274—13 I C 529

2 On a charge of rape a conviction for abetment of rape is valid without amendment of charge 1935 A 935 1925 A 448 and 1926 A 227 Dist

9 Conviction of substantive offence on a charge of abetment

Accused charged for abetment of offence only may be convicted of the principle offence 1931 M 225=131 I C 458 1925 M W N 418 (P C) Rel 33 M 264 Not Foll

10 Cross examination before— *See* Cross examination—4

11 Doubts as to which of several offences was committed S 236 Cr P C *See* Alternative Charge

1 S 236 Cr P C applies to a case where it is doubtful whether the act or acts constituting a single offence may amount to one or other of several cognate offences 23 C 174 (177) 5 S L R 16 54 C 476

2 S 236 does not apply to distinct acts but single act or series of acts so that the charge may be in the alternative 43 P R 1877

3 S 236 does not apply when acts proved raise a doubt whether accused is guilty of any of the charges at all 12 C W N 530

4 Doubt must be as to the application of law to the proved facts and not about the facts which constitute the offence 1925 C 903—85 I C 818 134 I C 433 132 I C 754 41 C 537 43 I C 618 54 I C 252

5 That the accused is charged both under Ss 380 and 414 does not vitiate the trial 8 P 731

6 Alternative charge for contradictory statements can be framed when the prosecution is unable to prove which of the two statements is false 27 P R 1890 2 Weir 300 89 I C 1025=1935 O 660

7 When the conviction is in the alternative the Court should pass maximum sentence provided for the lessor of the two alternative charges 15 A L J 587 63 P L R 1903

8 S 231 applies to cases in which prosecution cannot establish exclusively any one offence 134 I C 1004=1931 Sind 116=33Cr L J 41

12 Dropping of

When a charge has been framed under Ss 326 and 149 I P C a conviction under S 326 I P C is not necessarily bad 47 M 746—1925 M 1

Charge—(*contd*)

13 Effect of framing

1 When charge is framed, the inquiry becomes a trial 38 M 385

2 Where a Magistrate frames a charge he cannot acquit the accused or dismiss the complaint without hearing evidence on both sides 7 C W N 521

14 Error, ommission in— Ss 225, 232 535 and 537, Cr P C

1. If the superior Court thinks that in consequence of material error in a charge the accused has been misled it is bound to direct a new trial 33 P R 1916 Cr

2. If the appellate Court setting aside a conviction for rioting convicts the accused for house trespass and hurt the omission of the charge for the latter offence causes prejudice to the accused 30 C 288 18 C W N 1274—1276

3 Accused charged for dishonestly using as genuine a forged instrument was convicted of defamation Held that no valid charge for defamation could be framed and no trial could be held 28 C 63

4 If the common objects of an unlawful assembly are not mentioned in the charge it is defective 22 C 276 77 I C 988, 33 C 295 2 P 134 *See* 21 C 827 1926 B 314=95 I C 72

5 A charge of sedition is not defective if it omits to state the particular passage or particular words used by the accused It is sufficient if the substance of the words is set out 33 B 77 32 M 384 32 M 3 42 C 957

6 If the charge is defective but is sufficiently explicit to give the accused notice of the charge the irregularity will be cured 33 B 77 1924 C 18=25 Cr L J 1313

7 Omission to frame a charge does not invalidate an order of acquittal 6 A 129

8 A person charged under S 147 with the common object of causing hurt to complainant cannot be convicted under S 323 of causing hurt to another person 40 C 168

9 An omission to set out the guilty intention of the accused in the charge will be cured under S 537 unless the omission has occasioned a failure of justice 22 C 391

10 A trial *de novo* must not be ordered when no charge or a defective charge is framed A fresh trial from the stage of illegality should be ordered 1925 N 147

11 If any person is misled in his defence by absence of any charge or an error in the charge a retrial should be ordered 9 P 642=118 I C 323=1929 P 712

12 In a charge under S 498 it was found that wife was not enticed away from her husband s house but from B s house Held that it was not proper to order retrial 1930 C 138=124 I C 570=31 Cr L J 697=1930 Cr C 138

13 Failure to define accurately the common object of unlawful assembly is an irregularity curable under S 537 1930 M 188 36 C 865 37 C 340

14 Omission to frame a charge against accused under S 506 when it was framed against co accused is immaterial 1923 A 476=76 I C 568

15 Accused charged under 147 can be convicted under S 323 I P C in appeal 1926 P 359=108 I C 333

16 The lumping of charge together in a manner which is contrary to the provisions of S 233 is covered by S 537 Cr P C 61 I C 168

17 If two offences could not be tried together their joinder would vitiate the whole trial 1 L 562 25 M 61

18 If theft and assault are committed on different occasions the joinder of charges is bad and vitiates the trial 1922 L 144=62 I C 329

19 Omission of S 149 I P C, from the charge is not an illegality 47 M 74

20 A defect of charge cannot be condoned in an appeal against acquittal 1927 L 109=99 I C 602=28 Cr L J 170

21 In a charge under S 498 if the accused are not charged with knowledge that abducted woman was married one but the accused knew what they were charged with, the defect is not fatal 1927 L 432=101 I C 451 1927 L [illegible]

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 93 of 1918.

DELHI,

29th January 1918.

93. Pay and allowances of British soldiers attached to the Supply and Transport Corps for duty.

It has been decided that, with effect from the date of this Army Instruction, the provisions of paragraph 454, Army Regulations, India, Volume I, shall be inoperative in the case of non-commissioned officers and men of regular battalions, employed temporarily with the Supply and Transport Corps in India or with *that Corps on field service*, and that all such soldiers shall be granted pay, allowances and concessions as are at present admissible to men withdrawn from Territorial units and Garrison battalions in India, for service temporarily with the Supply and Transport Corps, namely :—

Pay at 3 shillings per diem.

Class I Proficiency Pay.

Messing Allowance at As. 2-3 per diem.

Staff Pay at Rs. 20 per mensem.

Charge Allowance, when admissible under paragraphs 457 or 457-A., Army Regulations, India, Volume I.

Command Allowance, when admissible under paragraph 456, Army Regulations, India, Volume I.

Separation allowance and allotments of pay, as for serjeants.

Free rations.

Free quarters.

A free issue of the articles of clothing specified in the appendix.

2. Non-commissioned officers and men appointed direct from units to the Supply and Transport Corps, on probation, in permanent vacancies, will receive pay of rank at 3s. per diem with effect from the date of joining their appointments.

3. Nothing in this Instruction shall apply to acting serjeants employed with the Supply and Transport Corps under the terms of Army Department letter No. H.-2205, dated the 27th November 1914.

4. This decision will remain in force until the conclusion of the present war, and for such time thereafter as it may be necessary to augment the normal cadre of the Supply and Transport Corps by the temporary employment of regimental soldiers.

5. The expenditure involved is debitable to the ordinary grant and head of account, subject to re-adjustment by the Controller of War Accounts.

[37205 (Q. M. G.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

APPENDIX.

A free issue of the articles noted below will be admissible on joining the Corps; otherwise, the men will continue to be clothed under the same rules as applicable to their own units. Renewals of articles of personal clothing specified below will be made free in kind on the expiration of the periods of wear laid down, and those of public clothing under Army Regulations, India, Volume XI, paragraph 77.

Articles.		Period of wear	Cavalry.	Artillery. Horse, Field, and Heavy, and mounted men of Mountain Artillery.	Artillery. Dismounted men of Mountain Artillery, and other Royal Garrison Artillery.	Infantry.
Personal Clothing						
Drawers, cotton	Prs.	¼	...	...	2	2
Pantaloons, cord, khaki	Prs		...	...	[illegible]	1
Chevrons, worsted, 3 bar	Sets	1	2	2	2	2
Public Clothing.						
Gaiters, mounted artillery	Prs.	2	1 (a)	1 (a)	1 (a)	1 (a)
Spurs, jack	Prs	8	...	1 (b)	1	1
Spurs, jack, straps, with steel studs for	Sets	3	...	1 (b)	1	1
Coat, warm, troops		4	1 (c)	1 (c)	1 (c)	1 (c)
Necessaries.						
Knife, clasp, with lanyard		...	...	...	...	1

(a) In lieu of putties. Men already in possession of mounted artillery gaiters will [illegible]

Arm- [illegible] the provisions of [illegible] to store.

93]

S G.P.I., Delhi—No. 6 I A.I.—26-1-18.—4,932.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 94 of 1918.

DELHI,

29th January 1918.

94. Decentralisation of administrative work in Army Commands in India.

The Government of India have decided that with a view to the decentralisation of administration, the following instructions shall take effect from the 1st February 1918 :—

1. In order to avoid confusion with Army Headquarters, the titles of Northern and Southern Armies will be changed to Northern and Southern Commands, respectively.

2. The following increase of officers in the Headquarters of the Northern and Southern Commands will be made to enable them to deal with the extra work :—

1 Assistant Adjutant and Quartermaster General.

1 Deputy Assistant Adjutant General.

Attached.

1 Deputy Chief Engineer.

1 Deputy Director, Supplies and Transport.

1 Deputy Assistant Director, Supplies and Transport.

1 Deputy Director, Medical Services (Southern Command only).

1 Deputy Assistant Director, Medical Services (Northern Command only).

In addition, the existing Deputy Auditor General in each Command will also act as Financial Adviser.

The Clerical and Office Establishments will be increased proportionately.

The revised staff and establishments will be as shown in Annexure A.

3. As a general principle, all questions of policy will be referred by Commands to Army Headquarters. All questions of administration will, unless a new principle is involved, be dealt with by Commands, which will forward those they consider necessary to Army Headquarters. All questions involving decisions as to scale and pattern of equipment will be forwarded to Army Headquarters.

4. Army Headquarters will deal with all questions directly connected with the war, and with all matters regarding embarkation, despatch of men and material overseas, and analogous subjects. Internal security schemes will be dealt with by Army Headquarters, Commands being responsible only for their execution.

5. Subject to the general principles laid down in the preceding paragraph, Commands will deal at their discretion with all administrative subjects pertaining to the Branches of the Adjutant-General, Quartermaster-General, Director Medical Services, Director-General of Ordnance and Military Secretary, other than those expressly reserved for Army Headquarters in Annexure "B" to this Instruction.

6. Separate orders will issue as to the delegation of powers in the Military Works Branch.

7. The extra expenditure involved is estimated at Rs. 8,35,366 recurring and is debitable to the Indian Army Estimates under the ordinary grants and heads affected.

[56006 (A. G.-5). / A.]

A. H. BINGLEY, *Major-General*,
Secretary to the Government of India.

ANNEXURE A.

Staff and Establishments of a Command.

1 Army Commander.
1 [illegible], General Staff.
1 [illegible]
1 [illegible]
1 [illegible]
1 Staff Captain.
1 [illegible]).
1 [illegible]
1 [illegible]
1 Chief Engineer.
1 Staff Officer, R. E. (Captain).
1 Deputy Director, Medical Services.
1 Deputy Assistant Director, Medical Services (Captain).
1 Deputy Judge Advocate General (Major).
1 Deputy Director, Veterinary Services (Major) (para. 1(*i*) A. R., I., Vol. I).
1 Assistant Director of Ordnance Stores, R. A. pay (Lt.-Col.).
1 Assistant Military Secretary (Major).
1 Deputy Chief Engineer.
*1 Inspector, Supplies and Transport.
1 Deputy Director, Supplies and Transport.
1 [illegible] Assistant Director, Supplies and Transport.
1 [illegible]
1 [illegible]
1 [illegible]
1 [illegible]
1 [illegible]

Clerical Establishment.

	Grade pay per mensem.
	Rs.
1 Chief Clerk	500
1 Clerk	350
1 "	300
2 Clerks	250
2 "	200
3 "	175
4 "	150
5 "	120
4 Lady Clerks	100
23	

* Will be found from Supply and Transport complement.

Indian Establishment.

		Grade pay per mensem. Rs.
2	Clerks	150
1	Clerk	100
2	Clerks	90
2	"	80
2	"	70
2	"	60
7	"	50
6	"	40
2	"	30
26		
1	Draughtsman	100
1	"	80
1	"	50
3		

Distribution.

	Chief Clerk.	Superintendents.	British Clerks.	Indian Clerks.	Draughtsmen.	Total British.	Total Indian.
Assistant Military Secretary	...	...	1	...	...	1	...
General Staff	...		3	...	...	4	...
Adjutant General and Quartermaster General	...	2	7	2	...	9	2
Supply and Transport	...	...	1	2	...	1	2
Medical	...	...	3	1	.	3	1
Establishment	1	...	...	1	...	1	1
Central Registry	...	.	1	4	...	1	4
Assistant-Director of Ordnance Stores	...	...	1	...	...	1	...
Deputy Director, Veterinary Services	..	.	...	2	..	..	2
Deputy Judge Advocate General	...	...	...	6	...	...	6
Chief Engineer	..	1	1	8	3	2	11
Total	1	4	18	26	3	23	29

Menial Establishment

		Pay per mensem. R
1	Head Daftry	[illegible]
4	Daftries	15
1	Jemadar Peon	11
27	Peons	11
1	Bhisti	9
3	Sweepers	8
2	Chowkidars	8
1	Mali	8
		13
	Total	53

ANNEXURE B.

List of subjects which will continue to be dealt with at Army Headquarters.

ADJUTANT GENERAL'S BRANCH.

(1) Organization, drafts and reinforcements.
(2) Mobilization except mobilization for North-West Frontier, within the limits of the current scheme.
(3) Recruiting, except as regards suitability of recruits.
(4) Prisoners of War.
(5) Military Asylums.
(6) Foreign Service (Indian ranks).
(7) Military Prisons and Detention Barracks.
(8) Unattached List.
(9) Artillery promotions; British ranks above rank of Serjeant and Indian ranks above rank of Havildar.
(10) British Army schoolmasters and schoolmistresses—Posting of.
(11) Army Institute Fund (Administration of Central Fund).
(12) R. A. Messes (Administration of Fund).

QUARTERMASTER GENERAL'S BRANCH.

Movements and Quartering.

(1) Sea Transport.
(2) Railway Transport—
(a) Movements between Commands
(b) Movements between Divisions involving the use of special trains.
(c) Movements to and from Seaports in connection with Oversea Forces.
(d) Military Traffic Rules and concessions.
(e) Armoured Trains.
(f) Light Military Railway Reserve.
(g) Approval of concentration schemes and plans of movement, including long halt stations, railheads, military sidings, and reserves of stores and material, executive action as to above.
(3) Scales of accommodation for all ranks and followers.
(4) Scales of barrack supplies.
(5) Disposal of buildings and land no longer required for military purposes, and the acquisition of land and buildings.
(6) Application of the "Defence of India" Rules.
(7) Budget.

(8) Pending amendment of the Cantonment Act; all matters concerning the Cantonment Magistrate's Department except privilege leave to officers.

Supply and Transport.

(1) Selection and appointment of all probationer officers to a *Divisional Supply or Depôt Company.*
(2) Appointment of A. D.'s of Supply and Transport and all inspectors.
(3) Appointment of all Commanders to M. T. Companies and transfer of officers and others between them.
(4) Distribution of remounts and personnel Mule *Depôts.*
(5) Control of Central M. T. Depôt and M. T. purchasing officers except for rations, quarters, and discipline.
(6) Promotion of all ranks, S. & T. Corps, including D. O. H. R, Warrant and N. C. O.'s
(7) Transfers of all ranks between Commands.
(8) Promotions, reversions, transfers, etc., of clerks.
(9) Budget.
(10) Appointment of Commandant and Instructors to the S. & T. Training Establishment at Rawalpindi, and courses of instruction.
(11) Stocks to be maintained in Supply Depôts.
(12) Scales of issues and alterations in same; scales of harness and saddlery and alterations in same.
(13) Compensation.
(14) Provision of carts, harness and saddlery.
(15) Purchase of transport animals.

Veterinary Services.

(1) Allotment of officers.
(2) Promotion of personnel of Indian Subordinate Veterinary Corps.
(3) Reports of all outbreaks of contagious disease.
(4) Control of the technical works at the Sehawa Laboratory and at *Army Veterinary Schools.*

Farms.

The Departmental control of Grass and Dairy Farms.

Remounts.

The Departmental control of Remount Depôts.

Clothing.

(1) Scales and patterns of clothing and necessaries.
(2) Clothing allowances.

(3) Provision of clothing necessaries.
(4) Despatching of clothing oversea.
(5) Scales of reserve and depôt stocks.

MEDICAL BRANCH.

(1) Administrative Officers (A. M. S. and I. M. S).
(2) [illegible] S. Officers.
(3) [illegible]
(4) [illegible] A. B. C. and A. H. C. and inferior personnel.
(5) Confidential reports and returns.
(6) Medical Boards on medical personnel.
(7) Applications for Commissions.
(8) Selection of officers to fill appointments at present sanctionable by His Excellency the Commander-in-Chief (Army Regulations, India, Volume VI, Appendix I).
(9) Furlough and leave (out of India only) Officers, I. S. M. D. and Nurses.
(10) General questions relating to A. B. C. and A. H. C.
(11) Establishments R. A. M. C. rank and file.
(12) Allotment to Commands in bulk of medical personnel (superior and inferior).
(13) Questions relating to the promotion, retirement and pension of officers, nurses, and I. S. M. D.
(14) General questions affecting the pay and allowances of medical personnel (superior and inferior).
(15) All questions regarding the grant of rewards to officers, nurses I. S. M. D., A. B. C., and A. H. C.
(16) General questions relating to clothing of the I. S. M. D., A. B. C., A. H. C., and menial establishments.
(17) Questions relating to the estates of officers, members of I. S. M. D., Assistant Surgeon Branch.
(18) General questions relating to medical attendance.
(19) [illegible]
(20) [illegible] ent.
(21) [illegible]
(22) [illegible] Military Medical Services in India.
(23) Schemes for Field operations, including allotment of, and mobilization orders for, medical units.
(24) Transfer of officers and members of I. S. M. D. from one command to another.
(25) All schemes for the provision of hospital accommodation which involve expenditure in excess of the financial powers of G. O.'s C. concerned or questions which involve a departure from accepted principles.

(8) Pending amendment of the Cantonment Act; all matters concerning the Cantonment Magistrate's Department except privilege leave to officers.

Supply and Transport.

(1) Selection and appointment of all probationer officers to a Divisional Supply or Depôt Company.

(2) Appointment of A. D.'s of Supply and Transport and all inspectors.

(3) Appointment of all Commanders to M. T. Companies and transfer of officers and others between them.

(4) Distribution of remounts and personnel Mule Depôts.

(5) Control of Central M. T. Depôt and M. T. purchasing officers except for rations, quarters, and discipline.

(6) Promotion of all ranks, S. & T. Corps, including D. O. H. R., Warrant and N. C. O.'s

(7) Transfers of all ranks between Commands.

(8) Promotions, reversions, transfers, etc., of clerks.

(9) Budget.

(10) Appointment of Commandant and Instructors to the S. & T. Training Establishment at Rawalpindi, and courses of instruction.

(11) Stocks to be maintained in Supply Depôts.

(12) Scales of issues and alterations in same; scales of harness and saddlery and alterations in same.

(13) Compensation.

(14) Provision of carts, harness and saddlery.

(15) Purchase of transport animals.

Veterinary Services.

(1) Allotment of officers.

(2) Promotion of personnel of Indian Subordinate Veterinary Corps.

(3) Reports of all outbreaks of contagious disease.

(4) Control of the technical works at the Sehawa Laboratory and at Army Veterinary Schools.

Farms

The Departmental control of Grass and Dairy Farms.

Remounts.

The Departmental control of Remount Depôts.

Clothing.

(1) Scales and patterns of clothing and necessaries

(2) Clothing allowances.

(3) Provision of clothing necessaries.
(4) Despatching of clothing oversea.
(5) Scales of reserve and depôt stocks.

MEDICAL BRANCH.

(1) Administrative Officers (A. M. S. and I. M. S.).
(2) [illegible] I. M. S. Officers.
(3)
(4) [illegible] A. B. C. and A. H. C. and inferior personnel.
(5) Confidential reports and returns.
(6) Medical Boards on medical personnel.
(7) [illegible]
(8) [illegible] present sanctionable by [illegible] (Army Regulations, India, Volume VI, Appendix I).
(9) Furlough and leave (out of India only) Officers, I. S. M. D. and Nurses.
(10) General questions relating to A. B. C. and A. H. C.
(11) Establishments R. A. M. C. rank and file.
(12) Allotment to Commands in bulk of medical personnel (superior and inferior).
(13) Questions relating to the promotion, retirement and pension of officers, nurses, and I. S. M. D.
(14) General questions affecting the pay and allowances of medical personnel (superior and inferior).
(15) All questions regarding the grant of rewards to officers, nurses I. S. M. D., A. B. C., and A. H. C.
(16) General questions relating to clothing of the I. S. M. D., A. B. C., A. H. C., and menial establishments
(17) Questions relating to the estates of officers, members of I. S. M. D., Assistant Surgeon Branch.
(18) General questions relating to medical attendance.
(19) Amendment of A. R., I., etc.
(20) [illegible] ipment.
(21)
(22) [illegible] the Military Med[illegible] Services in India.
(23) Schemes for Field operations, including allotment of, and mobilization orders for, medical units.
(24) Transfer of officers and members of I. S. M. D. from one command to another.
(25) All schemes for the provision of hospital accommodation which involve expenditure in excess of the financial powers of G. O.'s C. concerned or questions which involve a departure fro accepted principles.

(26) All questions directly arising out of the present war, *e.g.*, war hospitals, hospital ships, ambulance trains, convalescent sections, orthopædic institutions, Red Cross and war gifts, motor ambulance transport.

(27) *Compilation of statistical returns and reports (Peace and War).*

(28) Sanitary measures which are beyond the financial powers of Divisional and Army Commanders

(29) All questions affecting vaccines and sera (including war requirements).

NOTE.—Reports of outbreak and progress of epidemic diseases should be reported to A. H. Q.

ORDNANCE BRANCH.

(1) Location of War Reserves held by the Ordnance Department and the efficiency of arrangements for their issue to troops.

(2) Suitability of scales and pattern of equipment issued by the Ordnance Department.

(3) The efficiency of the system for despatching Ordnance Supplies to the Army in India and Forces overseas.

(4) The administration of Arsenals and Ordnance Depôt.

MILITARY SECRETARY'S BRANCH.

All subjects hitherto dealt with at Army Headquarters will continue to be referred to the Military Secretary's Branch except the following :—

British Service.

(1) Furlough and leave, except *ex* India.
(2) Pay and allowances.
(3) Acting rank (subject to War Office concurrence which will be notified when received).

Indian Army.

(1) Furlough and leave, except *ex* India.
(2) Pay and allowances.
(3) Acting promotions

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 95 of 1918.

DELHI,
5th February 1918.

95. Grant of acting promotion to officers filling vacancies in the command of Mechanical Transport Companies, Army Service Corps, in India.

It has been decided that the acting rank of Major, with corresponding increase of pay, under the terms of India Army Order No. 677, dated the 18th June 1917, may be granted to an officer filling a vacancy in the command of a Mechanical Transport Company, Army Service Corps, in India.

2. This decision will have effect from the 17th February 1917.

[33146 (A. G.-10). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

(26) All questions directly arising out of the present war, *e.g.*, war hospitals, hospital ships, ambulance trains, convalescent sections, orthopædic institutions, Red Cross and war gifts, motor ambulance transport.

(27) Compilation of statistical returns and reports (Peace and War).

(28) Sanitary measures which are beyond the financial powers of Divisional and Army Commanders.

(29) All questions affecting vaccines and sera (including war requirements).

NOTE.—Reports of outbreak and progress of epidemic diseases should be reported to *A. H. Q.*

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(4) The administration of Arsenals and Ordnance Depôt.

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(2) Pay and allowances.
(3) Acting promotions.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

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[33146 (A. G.-10).
B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 96 of 1918.

DELHI,
5th February 1918.

96. Rates of pay of educational and conservancy establishments of mule transport units, and grant of school allowance.

It has been decided that the educational establishments of mule transport units, sanctioned under paragraph 10 of the annexure to Army Department letter No. 7575, dated the 24th May 1917, shall receive pay at the same rate as is laid down in Army Regulations, India, Volume I, paragraph 901, for similar establishments of Indian infantry. The grant of a school allowance of Rs. 15 per mensem is also sanctioned in cases where a school is maintained.

It has further been decided that the rates of pay for the conservancy establishment of bhistis, sweepers, and cooks, sanctioned for mule transport units under paragraph 11 of the annexure to the Army Department letter referred to above, will ordinarily be governed by Army Regulations, India, Volume I, paragraph 912. For the present, however, they should be paid at the lowest local rates under the provisions of Army Department letter No. H.-9546, dated the 3rd December 1915.

[54621 (A. G.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 97 of 1918.

DELHI,
5th February 1918.

97. Appointment of an officer as Second-in-Command of each Indian Infantry battalion raised during the present war.

Sanction has [illegible] of an officer as Second-in-Comm[illegible] the war. In the c[illegible] are at present au[illegible] Command, and when the substantive rank of an officer so appointed is below that of Major, he will be granted acting rank as Major while holding the appointment. He will continue to draw the staff pay admissible to a Wing Commander. These orders will have effect from 1st January 1918.

2. The extra cost is debitable to His Majesty's Government and should be passed to the Central War Controller for adjustment.

[68303 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 99 of 1918.

DELHI,

5th February 1918.

9. Musketry and Machine Gun courses to be fired by officers and other ranks of Motor Machine Gun Batteries.

It has been decided that the personnel of Motor Machine Gun Batteries will fire musketry and machine gun courses as follows:—

Pistol course.—Officers of the batteries will fire the course laid down for British officers in Musketry Regulations, Indian Supplement, paragraph 472-A. Other ranks will fire the course laid down in the same paragraph, for "other ranks, Royal Artillery and Infantry."

Rifle course.—All ranks will fire Parts I, II and III, Table "B," Musketry Regulations, Part I, Appendix I.

Machine gun course.—All ranks will fire the course, Table "C," Chapter X, Musketry Regulations, Part I.

13,200 rounds of ammunition will also be allotted to each battery for Part III of Table "C."

This Instruction is in supersession of the orders conveyed in Army Department letters Nos. 14744-2 (G. S.), dated the 9th October 1916, 14744-4 (G. S.), dated the 19th December 1916, and 14744-5 (G. S.), dated the 30th January 1917.

[6773 (D. G. O). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 100 of 1918.

DELHI,

5th February 1918.

100. Pay of a Royal Engineer officer employed as a Commanding Royal Engineer of a Division in the field.

With reference to Army Department letter No. 9189, dated the 31st August 1916, it has been decided that a Royal Engineer officer of the Indian Establishment holding the appointment of Commanding Royal Engineer of a Division in the field shall be paid as a Commanding Royal Engineer in the Military Works Services after 3 years' and 8 months' service in the substantive rank of Lieutenant-Colonel.

Individual cases should be disposed of in accordance with this decision, and not referred to the Director-General of Military Works.

[4224 (M. W. 1). / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 101 of 1918.

DELHI,

5th February 1918.

101. Disposal of last-pay certificates of officers and supervisors proceeding to France with labour units.

The last-pay certificates of the officers and supervisors proceeding to France with the labour units referred to in Army Department letter No. 3542, dated the 9th March 1917, will, in future, be forwarded by the Local Governments concerned to the Officers Commanding their respective labour depôts in India, who will arrange for their onward transmission to the Field Controller of Military Accounts, Rouen, through the Controller of Military Accounts of the Division, after taking into account any payments made by them.

[illegible] that all such last-pay [illegible] Controller of Military [illegible] depôts in India should [illegible], without delay, with the names, etc., of the officers and supervisors who have proceeded on field service from their depôts.

[64 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 102 of 1918.

Delhi,
8th February 1918.

102. Exchange compensation allowance to officers of the Indian Army Reserve.

With reference to India Army Order No. 559 of 1914 in which were shown certain monthly rates of pay and allowances offered to gentlemen joining the Indian Army Reserve of Officers as Second Lieutenants, it has been decided that the rates of pay therein sanctioned are to be regarded as consolidated for purposes of exchange compensation allowance, *i.e.*, the rates of salary in question, *viz* Rs. 403-12-0 per mensem and Rs. 456-14-0 per mensem, for infantry and cavalry, respectively, shall not be liable to alteration as a consequence of the revised method of calculating exchange compensation allowance recently promulgated.

2. When, however, an officer of the class mentioned in the preceding paragraph becomes, while of the rank of Second Lieutenant or Lieutenant, entitled to the grant of any pay, staff pay, or any allowance, in addition to the pay and allowances sanctioned in the India Army Order referred to above, such pay, staff pay or allowance shall be regarded as consolidated and will not carry exchange compensation allowance.

3. On promotion to a higher rank than Lieutenant, and provided that an officer is in receipt of the pay and allowances of such higher rank, his salary shall be treated in the same manner as that of a British officer of the Regular Indian Army of corresponding rank, *i.e.*, it shall be regarded as made up of pay, regimental staff pay, exchange compensation allowance, etc., and the exchange compensation allowance shall be calculated in the manner laid down in India Army Order No. 1418 of 1917.

[68014 (A. G.). / B.]

A. H. BINGLEY, *Major-General*,
Secretary to the ...

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 103 of 1918.

DELHI,

5th February 1918.

103. Hill stations at which the supply of mosquito curtains is authorised for British and Anglo-Indian soldiers.

In modification of the orders contained in paragraph 1 of Army Department letter No. 26990-15 (Q. M. G.-6), dated the 26th March 1917, it has been decided that issues of mosquito curtains, poles and frames, shall not be made to regimental ranks of regular British or Anglo-Indian units serving at the marginally noted* hill stations, and that, in the case of men of these units proceeding to other hill stations, they will take with them the mosquito curtains in their possession.

* Barian Camp and Khyragali, Chakrata, Darjeeling, Jutogh, Kalabagh and Baragali, Khanspur and Ghora Dhaka, Kuldana, Landour, Murree, Upper and Lower Topa.

2. Sanction is also accorded to the issue, at one set per man, of poles and frames to all soldiers of Territorial units and Garrison Battalions serving at hill stations in India (including Burma), except those noted in the margin above. On proceeding to the hills, these men will take with them the curtains in their possession.

3. It is estimated that about 6,800 sets of frames and poles are required, and that the extra expenditure on this account will be approximately Rs. 20,400 initial and Rs. 4,080 annual recurring.

4. The extra expenditure involved is debitable to the Military Works grant for ordinary demands, and a sum of Rs. 20,400 is hereby transferred to that head from the reserve with the

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 104 of 1918.

DELHI,

5th February 1918.

104. Rules for the promotion to warrant rank during the war of Staff Serjeants of the Indian Ordnance Department.

The following rules are approved with a view to relieve the block in the promotion of Staff Serjeants of the Indian Ordnance Department which has resulted from the war :—

(i) Promotions shall be made at the rate of 20 per annum irrespective of vacancies. On this basis the number of promotions admissible during the period from the 31st July 1914 to the 31st December 1917 is 68.

(ii) The number of promotions which have been made in regular vacancies during the period mentioned in paragraph (i) above shall be deducted from the total of 68. The remaining promotions shall have effect from the 1st January 1918.

(iii) For the future, promotion shall be made at the rate of 5 quarterly during the period of the war; this number to be inclusive of normal vacancies.

(iv) The number of Staff Serjeants at present drawing allowances on the sub. *pro* scale under the provi Army Department No. H-3135,* dated February 1915, shall be reduced by the moted under these instructions in excess of est[redacted]ment of Sub-Conductors

* Communicated to the Controller of Military Accounts concerned under the same number and date.

Government of India under Grant 14 of the Army Estimates meet the initial expenditure which will be incurred during current financial year.

[36030 (Q. M. G.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of Ind

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 104 of 1918.

DELHI,

5th February 1918.

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(*ii*) The number of promotions which have been made in regular vacancies during the period mentioned in paragraph (*i*) above shall be deducted from the total of 68. The remaining promotions shall have effect from the 1st January 1918.

(*iii*) For the future, promotion shall be made at the rate of 5 quarterly during the period of the war; this number to be inclusive of normal vacancies.

(*iv*) The number of Staff Serjeants at present drawing acting allowances on the sub. *pro tem.* scale under the provisions of Army Department letter No. H.-3135,* dated the 2nd February 1915, shall be reduced by the number promoted under these instructions in excess of the normal establishment of Sub-Conductors.

* Communicated to the Controller of Military Accounts concerned under the same number and date.

3. On the absorption of the additional acting captain in a vacancy caused by a casualty among the company commanders, an interval of fifteen days will be required before another officer is appointed acting captain in the former's place.

4. These rules will have effect from the 20th July 1917.

5. [illegible] these rules will be made by General O[illegible] Forces, subject to confirma- [illegible] Routine Orders.

[54683 (A.G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 107 of 1918.

DELHI,

5th February 1918.

07. Issue of putties to pensioned sepoys and discharged men re-employed as ward orderlies for duty in Indian troops' war hospitals in India.

Sanction is accorded to the addition of the following article to the statement attached to Army Department letter No. 14063, dated the 18th September 1917 :—

Item 17—Putties, Pr. 1.

The above article will be supplied by the Army Clothing Department.

[$\frac{49904 \text{ (A. G.)}}{\text{D.}}$]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 108 of 1918.

DELHI,

5th February 1918.

108. **Funeral expenses of men of the Hyderabad Imperial Service Troops who are invalided from field service and die in hospitals or convalescent camps in India.**

It is notified that, with effect from the 1st January 1918, the Government of His Exalted Highness the Nizam of Hyderabad have decided to bear the expenditure on account of the actual funeral expenses of men of the Hyderabad Imperial Service Troops who are invalided from field service and die in hospitals and convalescent camps in this country.

[01081 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 109 of 1918.

DELHI,

5th February 1918.

109. Grant of licenses for supply of electricity to cantonments, fortresses, etc.

With reference to the Indian Electricity Act, 1910, Part II, Section 3 (2) (a) (ii), in which it is stated that in the case of an application for a license to supply electric energy for an area, including the whole or any part of any cantonment, fortress, etc., the Local Government shall not grant the license until it has first ascertained that there is no objection on the part of the General Officer Commanding the Division to the grant of a license, it should be understood that, before a General Officer Commanding gives his concurrence to such license, the matter should be referred by him to the Director-General of Military Works, to whom a copy of the proposed license should also be sent.

[4300 (M. W.-4). / C.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

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[4300 (M. W.-4). / C.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 110 of 1918.

DELHI,

5th February 1918.

110. Service for Indian pension in the case of Royal Engineer officers who were on the Indian establishment on the outbreak of the war.

In supersession of the orders in Army Department letter No. 6132, dated the 28th April 1917, it has been decided that all Royal Engineer officers who were on the Indian establishment on the outbreak of the war and who were sent home either with Indian formations or individually, for service under the War Office during the war, as well as those on leave or deputation in England who were detained for duty under the Imperial Government, shall be regarded, for the purpose of Army Regulations, India, Volume I, paragraph 720 (*e*), as still borne on the Indian establishment until definitely removed therefrom either by transfer to the Imperial Government or otherwise, and consequently shall be entitled to count their service as service for Indian pension.

2. The condition in Army Regulations, India, Volume I, paragraph 720 (*e*), that "contribution for pension is duly paid" (which, as regards officers lent to the War Office, refers to the payment of a service share of the pension ultimately granted to the officer) will be waived in the case of officers serving with the Expeditionary Forces as well as in the case of those transferred individually to Imperial employment in connexion with the war. The same principles are applicable also in the case of continuous service Royal Engineer officers whose services have been lent to the Imperial Government in connexion with the war.

[4325 (M. W.). / R.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 111 of 1918.

DELHI,

5th February 1918.

111. Grant of acting promotion, under the terms of India Army Order No. 677 of 1917, to officers of Coast Defence and Inland Companies, Royal Garrison Artillery, and Ammunition Columns, Royal Field Artillery.

It has been decided that the acting rank of captain may be granted to an officer acting as the Officer Commanding a Coast Defence or Inland Company of Royal Garrison Artillery, and that the acting rank of lieutenant may be granted to an officer acting as the Officer Commanding an Ammunition Column, Royal Field Artillery.

The grant of the acting rank of captain to an officer acting as second-in-command of a Coast Defence or Inland Company of Royal Garrison Artillery is not admissible.

[33146 (A. G.-10). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

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[[illegible]]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 112 of 1918.

DELHI,

5th February 1918.

112. Pay and Allowances of Machine Gun Corps, Mesopotamia.

It has been decided :—

(1) that the provisions of India Army Order No. 1267 of 1917 shall have retrospective effect to the date on which the Brigade Machine Gun Companies in Mesopotamia were merged into the Machine Gun Corps, on the arrival of the latter in Mesopotamia, and that the recovery of any overpayments which may have been made shall be waived ;

(2) that, as stationery in kind is supplied free on field service, no contract allowance shall be admissible : actual expenses incurred on repair of arms will, however, be recovered on contingent bills ;

(3) that command pay shall be admissible to officers, with retrospective effect as in clause (1) above, as follows :—

	Per mensem.
	Rs.
[illegible]	50
[illegible]	50
[illegible]mmander	60

* The pay of a Major of Royal Field Artillery includes command pay.

[[illegible] (A. G.) / L.]

A. H. BINGLEY, Major-General,

Secretary to the Government of [illegible]

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 113 of 1918.

DELHI,

5th February 1918.

13. Appointment of British non-commissioned officers to Indian Cavalry and Infantry Units and Depots as instructors.

The experiment has been tried in certain Divisions of attaching selected British non-commissioned officers to Indian Infantry depôts as instructors, and reports show that such attachment has proved of great value to all concerned.

2. It has therefore been decided to authorise General Officers Commanding Divisions, at their discretion, to attach British non-commissioned officers to Indian Cavalry and Infantry depôts, to newly raised Indian Infantry battalions, and also to Indian Cavalry Regiments and Infantry battalions in which there are a large number of recruits, and where there is difficulty in finding sufficient trained instructors

3. The greatest care should be taken in selecting non-commissioned officers for attachment. They should possess force of character, aptitude for teaching, keenness and smartness. A knowledge of Hindustani is desirable, but is not essential, as the greater part of the instruction can and should be carried on by demonstration.

4. As regards professional qualifications, non-commissioned officers should be selected for their efficiency in certain definite subjects, *e g*, drill, musketry, physical and bayonet training, or bombing, and they should be employed definitely on one of these subjects to teach a small squad of Indian non-commissioned [illegible] to instruct in the [illegible] [illegible] is method possesses advantages [illegible] non-commissioned officers to teach

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 114 of 1918.

DELHI,

5th February 1918.

114. Class for the tactical instruction of the personnel of Armoured Motor Batteries in India.

The formation of a class for the tactical instruction of the personnel of Armoured Motor Batteries in India has been approved.

2. The details regarding the organization of this class are shewn in the scheme attached to this Instruction.

3. The expenditure involved will be debitable to "Grant 14—War, India."

[10080 (G. S.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

Mess Allowance—

		Rs
Brought forward		4,436
	Rs. A	
Officers 14 for 1½ months at Rs 10 per mensem	210 0	
Non-commissioned officers 13 for 1½ months at Re. 1 per mensem	19 8	230
Rs	229 8	
Rs		4,666

…nd detention allowance will be

…ade will act as Commandant,

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 115 of 1918.

DELHI,

12th February 1918.

115. Appointments in the place of members on the permanent staff of units of the Indian Defence Force who have proceeded on field service overseas.

It has been decided that sub *pro. tem.* appointments are admissible in the place of acting Sergeant Majors and Staff Sergeant Instructors on the permanent staff of Indian Defence Force units who have proceeded on field service overseas with Indian Volunteer formations, until such time as they rejoin their appointments.

[57616 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

			Rs
	Brought forward		4,436
Mess Allowance—			
	Rs.	A.	
Officers 14 for 1½ months at Rs 10 per mensem	210	0	
Non-commissioned officers 13 for 1½ months at Re. 1 per mensem	19	8	230
Rs	229	8	
Say Rs. 230			
	Rs		4,666

NOTE —(a) Expenditure on account of travelling and detention allowance will be met from ordinary grant heads.

(b) The Commandant Headquarters Brigade will act as Commandant, and the Adjutant as Instructor

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 116 of 1918.

DELHI,

12th February 1918.

Increase in the instructional staff at schools of musketry for the expansion of the Indian classes.

It has been decided that, as a war measure, the Indian classes at the Central School of Musketry, Pachmarhi, and at the Branch Schools of Musketry, Satara and Rawalpindi, shall be increased to 100 students for the undermentioned periods :—

(*a*) Satara—from the 20th December 1917, for the duration of the war.

(*b*) Rawalpindi—from the 20th December 1917 to the 31st March 1918.

(*c*) Pachmarhi—from the 1st April 1918, for the duration of the war.

2. The instructional staff at these schools will consequently be increased as follows :—

1 extra assistant instructor at Rs. 100 per mensem staff pay *plus* exchange compensation allowance. 1 1st class Indian non-commissioned officer instructor at Rs. 15 per mensem extra duty pay. 6 Indian non-commissioned officer instructors at Rs. 10 per mensem extra duty pay. 1 assistant armourer (Indian) at Rs. 10 per mensem extra duty pay.	Each for the Satara and Rawalpindi Branch Schools of Musketry for the periods stated at (*a*) and (*b*) above.

1 assistant instructor at Rs. 150 per mensem staff pay *plus* exchange compensation allowance. 1 extra assistant instructor at Rs. 100 per mensem staff pay *plus* exchange compensation allowance. 1 1st class Indian non-commissioned officer instructor at Rs. 15 per mensem extra duty pay. 9 Indian non-commissioned officer instructors at Rs 10 per mensem extra duty pay. 1 assistant armourer (Indian) at Rs. 10 per mensem extra duty pay.	For the Central Sch Musketry, Pachmarhi period stated at (*c*) a

NOTE.—The appointments of extra assistant instructors will be to the conditions laid down in the foot-note to paragraph 9, Army tions, India, Volume I.

3. (*i*) The staff pay of the instructors at the Sata Rawalpindi Branch Schools of Musketry will be increased Rs. 250 to Rs. 400 (*plus* exchange compensation allowance mensem for the periods mentioned in paragraph 1 (*a*) an above.

(*ii*) The allowances authorized as extra duty pay for the fa parties of each of the schools mentioned in paragraph 1 above be increased to Rs. 200 per mensem during the periods for the increased classes are held.

(*iii*) The floors of twelve additional tents required at P marhi will be bricked at a cost of Rs. 300.

4. The extra expenditure involved will be debitable to ordinary grant and head of account affected, such portion of it a incurred during the current financial year being met by reapprop -tion.

[19292 (G.S.). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of Indi

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

RMY INSTRUCTION (INDIA).

No. 117 of 1918.

DELHI,

12th February 1918.

Road journeys in India of officers granted leave from overseas forces.

In partial modification of the orders contained in the second clause of paragraph 2 of Army Department letter No. 5417, dated the 17th April 1917 (*vide* paragraph 2 of India Army Order 327 of 1917), it is notified that officers granted leave from overseas forces may make their own arrangements for the road portion of the journey to their selected place of residence, in lieu of travelling on warrant by road, and recover the actual cost of the warrant from Government on the production of a no-warrant certificate from the embarkation officer at the port of disembarkation.

Government accept no liability for any expenditure over and above that which would have been incurred had the officer travelled on warrant.

[802 (Q. M. G.-1), E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

1 assistant instructor at Rs. 150 per mensem staff pay *plus* exchange compensation allowance. 1 extra assistant instructor at Rs. 100 per mensem staff pay *plus* exchange compensation allowance. 1 1st class Indian non-commissioned officer instructor at Rs. 15 per mensem extra duty pay. 9 Indian non-commissioned officer instructors at Rs. 10 per mensem extra duty pay. 1 assistant armourer (Indian) at Rs. 10 per mensem extra duty pay.	For the Central Scho Musketry, Pachmarbi, period stated at (c) ab

NOTE.—The appointments of extra assistant instructors will be to the conditions laid down in the foot-note to paragraph 9, Army R tions, India, Volume I.

3. (i) The staff pay of the instructors at the Satara Rawalpindi Branch Schools of Musketry will be increased Rs. 250 to Rs. 400 (*plus* exchange compensation allowance) mensem for the periods mentioned in paragraph 1 (a) an above.

(ii) The allowances authorized as extra duty pay for the fat parties of each of the schools mentioned in paragraph 1 above be increased to Rs. 200 per mensem during the periods for w the increased classes are held.

(iii) The floors of twelve additional tents required at Pa marhi will be bricked at a cost of Rs. 300.

4. The extra expenditure involved will be debitable to t ordinary grant and head of account affected, such portion of it as incurred during the current financial year being met by reappropr -tion.

[19292 (G. S.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of Ind

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GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 118 of 1918.

DELHI,

12th February 1918.

18. Pay, allowances, and leave admissible to lady nurses of the New Zealand Army Nursing Service.

The pay, allowances, and leave admissible to lady nurses of the [N]ew Zealand Army Nursing Service are as follows:—

	Per diem. s.	d.	
[P]ay—			
Matrons	8	8	
Sisters	6	7	
Staff Nurses . . .	5	6	
[A]llowances—			
Laundry	0	8	
Messing	3	6	when not rationed.
Lodging	4	0	when on duty and not provided with quarters.

	Per annum.
Maintenance of uniform .	£8

Leave.—As for members of the Queen Alexandra's Imp[erial] [M]ilitary Nursing Service.

[18722 (D. / D.

A. H. BINGLEY, M[aj]...

Secretary to the G...

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 119 of 1918.

DELHI,

12th February 1918.

119. Pay of Indian officers and non-commissioned officers employed with Labour and Porter Corps.

In supersession of India Army Order No. 1236 of 1917, it has been decided that, with effect from the date of this Instruction, Indian officers and non-commissioned officers employed with Labour Corps shall receive the rates of pay admissible for similar ranks in Sapper and Miner units and those employed in Porter Corps shall receive Infantry rates of pay. These rates will apply to Jail Corps as well as free Labour Corps and to all Indian ranks employed therein whether transferred from other units or re-employed pensioners.

[53284 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 120 of 1918.

DELHI,

12th February 1918.

20. Concessions consequent on the suspension during the war of retirements and transfers of officers to the Unemployed Supernumerary List.

It has been decided that, as ordinary retirements and transfers to the Unemployed Supernumerary List are suspended during the war, officers qualified for the retiring pension of £700 a year may be permitted to draw unemployed pay at that rate, and that officers, who entered the Indian Army before the 1st July 1881 may be permitted, at any time after qualifying for the pension of £750 a year, to draw unemployed pay at that rate. Any officer who entered the Indian Army before the 1st July 1881 and elects to draw unemployed pay equivalent to pension has, as a condition, to relinquish the prospect of succession to Colonel's allowances. The names of such officers will then be removed from pages 77[illegible] of the Indian Army List.

2. It has also been decided that General Officers appointed [illegible] the Indian Army before the 1st July 1881 may be permitted [illegible]come supernumerary on the establishment of General [illegible] and to draw a rate of unemployed pay equal to the [illegible] of rank on condition that they relinquish any prospect [illegible] succession to the Colonel's allowances or of promotion to [illegible] rank, and that General Officers who entered the Indian [illegible] later may be allowed the same concession on condition that they relinquish any prospect of promotion to higher rank. [illegible] [illegible] will not be open to officers employed under the Government of India and drawing Indian salaries.

3. Officers who desire to avail themselves of the above concessions should submit their applications through the prescribed channel and the Controller of Military Accounts concerned, to the Military Secretary to His Excellency the Commander-in-Chief in India.

[2225 (M. S.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 121 of 1918.

DELHI,

12th February 1918.

1. Temporary rank, with pay, for officers of the British Service employed under the Railway Board in Mesopotamia.

It has been decided that officers of the British Service who e employed under the Railway Board in Mesopotamia, shall be anted, under the orders of the General Officer Commanding the rce, such temporary rank with pay as is considered to be mpatible with their status on the railway, reports being in ch case rendered to the Secretary, War Office, giving the reasons r the grant of such temporary promotion.

2. The temporary rank will have effect from the dates on which ie officers concerned took over the particular railway duties for hich it is granted.

[58493 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 122 of 1918.

DELHI,
12th February 1918.

Revised scale of sandbags issued to units in India as a permanent measure.

Sanction is accorded to the issue of sandbags to units in India, shown in the attached statement, in lieu of the scale at present authorized.

2. The cost involved, which is estimated at Rs. 30,130 recurring per annum, is debitable to the ordinary grant and head of account affected in the Army estimates.

[8200 (D. G. O.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

Revised scale of sandbags for certain units in India, as a permanent measure.

Unit.	Number of sandbags equipment	Remarks
1 British cavalry regiments	750	
2 R H and R F A Batteries	1,200	
3 R. G. A Heavy Batteries	800	In lieu of tarred sandbags
4 British infantry battalions	2,000	
5 Indian cavalry regiments	750	
6 Sappers and Miners —		
(a) Headquarters	1,500	
(b) Companies	1,000	
7 Indian infantry battalions —		
(a) other than Pioneers	2,000	
(b) Pioneers	[illegible]	

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 123 of 1918.

DELHI,
12th February 1918.

123. Grant of charge allowance to officers in medical charge of Indian Convalescent Sections and Camps in India.

Sanction is accorded to the grant of charge allowances to officers in medical charge of Indian Convalescent Sections and Camps in India at the following rates:—

Sections and Camps accommodating—

	Rs.	
3,000 convalescents and over . . .	240	per mensem.
2,000 to 2,999	180	"
1,000 to 1,999	120	"
500 to 999	60	"

These allowances will be admissible in addition to the rates of pay authorised for officers of the Indian Medical Service in Army Department letter No. 5688, dated the 21st April 1917.

2. The orders in this Instruction have retrospective effect from the date of the opening of the Indian Convalescent Sections or Camps, or from the date on which the accommodation provided reached a total of 500, *i.e.*, the minimum number for which charge allowance is admissible.

[21497 (D. M. S.-1). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 124 of 1918.

DELHI,

12th February 1918.

4. Rules regulating the ordinary pensions of Indian officers of Military Police Battalions, attached to combatant units.

The question has been raised whether in the cases of dian officers of Military Police Battalions, attached to mbatant units, ordinary pensions earned by length of service ider the rules in the Civil Service Regulations, should be gulated in the same way as wound, injury and family pensions.

It has been decided that in all such cases, the ordinary pensions these officers should be disposed of under the Civil Service gulations, and not under Army Regulations, India, Volume I.

[51922 (A. G.-6). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 125 of 1918.

DELHI,

12th February 1918

5. Issue of sandbags to units and formations in India as a temporary measure for the duration of the war.

Sanction is accorded to the issue of sandbags to units and mations in India, as a temporary measure, for the duration of war, as shown in the attached statement.

2. The cost involved, which is estimated at Rs. 10,025 urring per annum, is debitable to His Majesty's Government.

[8200 (D. G.O.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 126 of 1918.

DELHI,
12th February 1918.

126. Issue of cleaners, breech, for units in possession of the 1914 pattern rifles.

Sanction is accorded to the issue of "Cleaners, breech, ·256-inch rifle," to all units, British and Indian, including the Indian Defence Force, that are armed with the 1914 pattern rifles, on the scale of 16 cleaners per 100 rifles.

2. The cost involved, which is estimated at *Rs.* 3,045 *initial* and Rs. 254 annual recurring, is debitable to the ordinary grant and head of account affected in the Army estimates.

[7532 (D. G. O.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

Revised scale of sandbags for certain units and formations i India as a temporary measure for the duration of the war.

	Unit.	Number of sandbags equipment.	Remarks.
1	British cavalry combined depôt .	1,000	
2	Reserve battalions (India) . .	2,000	
3	Indian cavalry depôts . .	1,000	
4	Indian mountain battery depôt .	600	
5	Headquarters, Sappers and Miners	20,000	
6	Indian infantry depôts . .	1,000	

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 126 of 1918.

DELHI,
12th February 1918.

126. Issue of cleaners, breech, for units in possession of the 1914 pattern rifles.

Sanction is accorded to the issue of "Cleaners, breech, ·256-inch rifle," to all units, British and Indian, including the Indian Defence Force, that are armed with the 1914 pattern rifles, on the scale of 16 cleaners per 100 rifles.

2. The cost involved, which is estimated at Rs. 3,045 initial and Rs. 254 annual recurring, is debitable to the ordinary grant and head of account affected in the Army estimates.

[7532 (D. G. O.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 127 of 1918.

DELHI,

12th February 1918.

127. Date from which full staff pay of their permanent appointments should be admitted to officers of the Indian Army returning to their permanent appointments from sick leave.

With the approval of the Right Honourable the Secretary of State for India, it has been decided that, with effect from the 1st March 1917 and for the duration of the war, officers of the Indian Army on sick leave in England shall, when found fit for light duty in India, or for active service, be permitted to resume the full staff pay of their permanent appointments, after a period of 35 days from the date on which they were reported fit, provided they are not themselves responsible for the delay in rejoining. These orders will not affect the pay of officers officiating for those to whom it applies.

2. The above decision will apply only to officers who are on leave pay at the date of the Medical Board which passes them; in the case of officers who, when passed fit for light duty or active service, are employed at Home, full pay will be resumed on the fifteenth day after embarkation.

[43912 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 128 of 1918.

DELHI,

12th February 1918.

28. Concessions to civil sub-assistant surgeons, and private practitioners of that class, who undertake liability for general service.

It has been decided to grant the following additional* concessions to civil sub-assistant surgeons who undertake liability for general service: —

* Army Department No. H.-4509, dated 29th May 1916.

(i) *Bonus.*—

First and second grade civil sub-assistant surgeons, Rs. 500 each.

Third and fourth grade civil sub-assistant surgeons, Rs. 300 each.

(ii) Every year of approved service in military employment will count as two for grade promotion, without departmental examination.

2. The bonus will be payable after the sub-assistant surgeon has been passed medically fit for general service and has signed the form of declaration attached to Army Department letter No. H.-4509, dated 29th May 1916.

It has also been decided that private practitioners and retired

3. It has also been [illegible] men [illegible] for g[illegible] and [illegible] sub-assistant surgeons.

[22292 (D. M. S.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 129 of 1918.

DELHI,

12th February 1918.

129. Decision that injury gratuities or pensions are inadmissible in cases of disability wholly attributable to illness, even though contracted or aggravated on field service and resulting in permanent unfitness for military duty.

In view of [illegible] injury pensions [illegible] attributable to [illegible] nor Indian regulations contemplate the grant of injury gratuities or pensions (apart from invalid pensions) in such cases, even though the illness was contracted on or aggravated by field service, and resulted in permanent unfitness for military duty.

[46823 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 130 of 1918.

DELHI,

12th February 1918.

130. Retrospective effect given to the rate of pay fixed for a Lieutenant-Colonel of the Army Service Corps attached to the Supply and Transport Corps in Mesopotamia, or serving with Mechanical Transport Companies, Motor Ambulance Convoys, and similar units in that country.

It has been decided that the rate of pay notified in India Army der No. 1349 of 1917 for a Lieutenant-Colonel of the Army rvice Corps attached to the Supply and Transport Corps in esopotamia, or serving with Mechanical Transport Companies, otor Ambulance Convoys, and similar units in that country shall ve retrospective effect to cover the cases of any officers who ere serving in Mesopotamia prior to the 7th November 1917.

[52173 (A. G.-8). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 131 of 1918.

DELHI,

12th February 1918.

131. Extra duty pay to officers of the Indian Medical Service employed as whole-time Recruiting Medical Officers.

It has been decided that when whole-time Recruiting Medical Officers are attached to the staff of Recruiting Officers, they shall be entitled to an allowance of Rs. 150 per mensem in addition to the rates of pay authorised in Army Department letter No. 5688, dated the 21st-April 1917.

2. In the case of Gorakhpur and Laheria Serai, this allowance will be admissible only for the period during which the Recruiting Depôt actually remains open.

3. The expenditure is debitable to His Majesty's Government and will be adjusted through the Controller of War Accounts.

[44240 (A. G.) / R.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 132 of 1918.

DELHI,

12th February 1918.

132. Pay of Quartermaster Serjeants of Indian Defence Force Units.

It has been [illegible] pay at the rate of Rs. 20 [illegible] Serjeant Instructor of the [illegible] duties of Quartermaster [illegible] subject to the following conditions:—

(a) the grant shall not be admissible to any unit, which under the terms of Army Department letter No. 15002, dated the 24th October 1917, is entitled to the appointment of a Quartermaster;

(b) the grant shall not, without the special sanction of the Government of India, be admissible to any infantry unit, the enrolled strength of which is less than 200.

[57778 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

RMY INSTRUCTION (INDIA).

No. 133 of 1918.

DELHI,

12th February 1918.

ugmentation of the establishment of Warrant and non-commissioned officers in arsenals.

tion is accorded, as a temporary measure for the period of to the augmentation of the authorised establishment of nt and non-commissioned officers employed in arsenals, he appointment of 50 additional men to be drawn from Garrison Battalions on the terms stated in Army Department letter No. H.-2715,* dated the 11th April 1916. Preference should be given to men of Territorial Battalions lately transferred to Garrison Battalions.

* ommunicated to the ant General in the Director General litary Works and to Military Accounts concerned with the umber and date.

This sanction will cover any appointments which have been in anticipation of the orders of the Government of India.

The expenditure involved, *viz*, Rs. 6,250 per mensem, d in the first instance be debited to the ordinary grant and of account affected. The Central War Controller will make necessary readjustments between His Majesty's Government he Indian Government.

[6803 (D. G. O.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 135 of 1918.

DELHI,

12th February 1918.

135. Free issue of mosquito nets at one per man to Indian troops at stations where malaria is rife.

The attention of all concerned is invited to Army Department letter No. 19108-2 (D. M. S.-5), dated the 24th October 1917. For the present stock of nets, tent-shaped, held by the Army Clothing Department, poles and frames should not be supplied.

[5593 (M. W.-5.) / C.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 136 of 1918.

DELHI,

12th February 1918.

Provision of additional subsidiary buildings, etc., in the lines of Indian units.

It has been decided to provide the following additional buildings in the lines of Indian Cavalry and Infantry regiments:—

I. *Indian Cavalry lines*—

Indian Officers' Club—one room 25′×12′×12′ with a 10′ verandah all round and pucca floors.

II. *Indian Infantry lines*—

(*a*) Indian Officers' Club—one room 25′×12′×12′ with a 10′ verandah all round and pucca floors.

(*b*) Durbar Hall—one room 30′×20′×10′ with pucca floors.

(*c*) Bhoosa and grain stores for mules at 10 sq. ft. per mule—

(*i*) For ordinary regiments—one room 20′×10′×10′.

(*ii*) For Pioneer regiments—one room 25′×20′×10′. To have pucca floors and walls to 3 ft. in height.

(*d*) Harness room at 6 sq. ft. per mule—

(*i*) For ordinary regiments—one room 12′×10′×10′ with a 6′ verandah on one side.

(*ii*) For Pioneer regiments—one room 25′×12′×10′ with a 6′ verandah on one side and pucca floors.

(*e*) Guard room for mule drivers—one room 15′×14′×12′ with an 8′ verandah on one side and pucca floors.

(*f*) Standings for mules—

(*i*) For ordinary regiments—20 standings, 12′×7′.

(*ii*) For Pioneer regiments—50 standings, 12′×7′.

(g) Accommodation for mule drivers of Pioneer regiments—
One barrack 36′ × 20′ × 13½′ with 8′ verandahs in front and back and pucca floors.

One cooking shed—12′ × 10′ × 9′.

(h) Magazine (for Pioneer regiments only)— Magazine—10′ × 10′ with a 6′ verandah on one side. Enclosure wall—10′ high round the magazine.	to be provided only when accommodation in a central magazine is not available.

The buildings for Indian Officers' Clubs should be fitted with fly proof doors and windows and provided with punkhas and fire places where necessary. Shelves and cupboards should be provided as fixtures in the walls.

2. The expenditure is debitable to the Military Works grant for Special Demands.

3. It has also been decided to provide the following furniture in each Indian Officers' Club at an estimated cost of Rs. 350 debitable to the Military Works grant for Ordinary Demands:—

2 deal tables.
16 chairs.
8 lounge chairs.
2 book cases.
1 rack for swords, etc.
1 hanging lamp.

4. The above improvements should be provided in the lines of all Indian Cavalry and Infantry regiments which may hereafter be built or reconstructed, and may also be carried out, as funds become available, in the lines which have already been reconstructed or been taken into Military Works charge.

[32116 (Q. M. G.-3) / C.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 137 of 1918.

DELHI,

12th February 1918.

37. British Expeditionary Forces, 1914 -Grant o "1914 Star".

His Majesty the King has been graciously pleased to signif is pleasure to recognise, by the g on, the services rendered by His he command of Field Marshal S ;.C.V.O., K.C.M.G., in France and Belgium during the earlie hase of the war in 1914, up to midnight 22nd-23rd Novembe 914.

2. The decoration will be a Star in bronze.

3. No clasp will be issued with the Star.

4. The riband will be red, white and blue, shaded and watered.

5. Provided the claims are approved ... the Star will be granted t ... and men of the British ... lical practitioners, nursing sisters, nurses and others employed with military hospitals, who actually served in France or Belgium, on the establishment of a unit of the British Expeditionary Forces, between the 5th August 1914 and midnight of the 22nd-23rd November 1914.

6. Printed forms for the submission of claims and spare copies of this Army Instruction can be obtained on application to the Secretary to Government of India, Army Department, (Medal Section), Simla No other form should be used for the submission of claims.

7. *British Service.*—(A) Medal rolls of officers (including chaplains and acting chaplains), civil medical practitioners, nurs-

staffs and rank and file, who are now serving on the Indian Establishment, will be submitted through their present commanding officers to the Secretary to the Government of India in the Army Department, (Medal Section), for transmission to the authorities by whom their claims will be verified in England.

(B) Officers, etc., and other ranks who are no longer serving and the legatees and next-of-kin of deceased individuals entitled to the decoration, will submit claims on the prescribed form, direct to the Secretary to the Government of India, Army Department, (Medal Section), for transmission to the authorities concerned.

8. *Indian Army and Services.*—The consideration of claims and the issue of the Star in the case of British officers of the Indian Army, Indian officers, soldiers of the Indian Army, warrant and non-commissioned officers of the India Unattached List, members of Queen Alexandra's Nursing Service for India, public and private followers, and civilians recruited from India, will be undertaken by the Government of India. [The usual channel of correspondence will be observed in the submission of claims.]

(A) Officers commanding units* of the Indian Army, which fulfil the conditions specified in paragraph 5, will prepare nominal rolls of those entitled to the Star, including therein officers and others who, at the time of disembarkation, were borne on the cadre of their unit. The claims of attached officers and men should be included on separate rolls. In order that the information in the rolls of individuals attached may be as complete as possible, officers commanding units of the Indian Army, whether they fulfil conditions of paragraph 5 above or not, should take steps to [ensu]re that the claims of all officers and men now serving with [them] who qualified in another unit for the decoration, are forwarded for verification and onward transmission to the Officer Commanding the unit in which the individuals were serving at the time of disembarkation.

In the case of individual reinforcements or drafts who claim to have landed in time to qualify for the decoration, but did not join the units to which they were posted until after midnight 22nd-23rd November 1914, a note should be made in the "Remarks" column in order that the date of landing may be verified in the Army Department.

(B) Claims from officers, non-commissioned officers and men and followers of the Supply and Transport, Medical, Ordnance, Veterinary and Army Remount Departments should be submitted through General Officers Commanding, Divisions or Independent Brigades.

*In the case of the unit being on field service, applications should be submitted through the Officer Commanding, Depot.

(C) Claims from the Post and Telegraphs, Survey, Accounts and other Departments, corresponding direct with the Government of India, should be submitted through the head of the Department concerned, direct to the Government of India, Army Department, (Medal Section).

(D) The claims of civilians, other than those who served in the above mentioned Departments who were on the establishment of a unit of the British Expeditionary Forces, France and Belgium, between the prescribed dates, should be submitted through the same channel through which they were entertained for field service.

(E) Individual officers (including chaplains and acting chaplains) and members of nursing staffs, who are no longer serving, should submit their claims on the prescribed form direct to the Secretary to the Government of India in the Army Department, (Medal Section); if they are still serving, it is for them to ensure that their claims are submitted through their present commanding officers or heads of Departments for inclusion in rolls submitted by the unit in which they qualified for the decoration.

The claims of retired Indian officers and discharged rank and file will be submitted through the Officer Commanding the unit* on whose rolls they were borne at the time of retirement.

(F) Applications from the legatees or next-of-kin of deceased officers and other ranks of the Indian Army and other Indian Services should, in the case of officers, be addressed, on the prescribed form, direct to the Secretary to the Government of India, Army Department, (Medal Section); in the case of other ranks including Indian officers, to the Officer Commanding the unit* or head of Department to which the deceased individuals belonged.

(G) The claims of public and private followers should be included in alphabetical order according to classes, in the rolls of those units or individuals with which or with whom they served.

9. Medal rolls will be prepared in quadruplicate in the case of British officers, British warrant and non-commissioned officers and men; and in duplicate for Indian officers, non-commissioned officers and men and followers. The names should be typewritten or hand printed. The names of British Officers and British warrant officers will be entered in order of rank; those of non-commissioned officers and men in alphabetical order. The names of Indian officers will be entered according to rank, and those of non-commissioned officers and men in alphabetical order. The rolls of officers and men will be kept distinct.

10. The names of individuals who have forfeited the Star under the conditions laid down in the Pay Warrant or Army Regulations, India, Volume II, as the case may be, are to be included in the rolls, their names being entered in red ink, and the cause of forfeiture stated in the column for "Remarks". The names of individuals who have become non-effective by death, transfer, discharge, etc., should also be entered in red ink, and the cause stated in the column for "Remarks".

11. Rolls should be carefully scrutinized to ensure correctness before submission, and officers submitting rolls will be held responsible for the validity of the claims put forward in each case. Great care should be taken to fill in correctly the necessary entries in the rolls.

12. Should units of the Indian Army or Services be unable, within two years, to issue the decorations awarded to individuals included in their rolls, the decorations should be returned to the Secretary to the Government of India, Army Department, (Medal Section), and a note to this effect made in the column of the medal roll, "Taken into stock."

[14524 (A. D.). / Medals.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

137]

R G P.I., Delhi—8 I. A., —10-2-18—4 502.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 138 of 1918.

Received 23-2-1

DELHI,

19th February 1918.

138. Issue of sun spectacles to British warrant and non-commissioned officers and men serving in India.

It has been decided that during the period of the war sun spectacles of a pattern similar to that issued to troops in Mesopotamia, shall be supplied to all British warrant and non-commissioned officers and men serving in India, who are recommended by the Divisional Eye Specialist to wear them. The spectacles will be supplied by the Supply and Transport Corps.

2. The expenditure involved in the case of men of regular units of branches of the service usually in India will be debitable to the ordinary grant and head of account affected. In all other cases the expenditure will be debitable to His Majesty's Government and should be passed to the Controller of War Accounts for adjustment.

[19635 (D. M. S.). / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 139 of 1918.

DELHI,
19th February 1918.

139. **Issue of boots, in lieu of shoes, to lance-naiks, drivers and artificers of all newly-raised transport units (other than mule units).**

With reference to Army Instruction (India) No. 34 of 1918, sanction is accorded to the free issue of boots, ankle, in lieu of shoes, to lance-naiks, drivers and artificers of all newly-raised transport units (other than mule units).

The shoes in possession will be continued in wear until worn out.

[297 (Q.M.G.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 140 of 1918.

DELHI,

19th February 1918.

10. Grant of an extra allowance to the regimental schools of Corps of Sappers and Miners.

In order to enable the schools of the 1st, 2nd and 3rd Sappers ıd Miners to deal effectively with the education of the increasing umber of recruits, the Government of India have decided to rant an extra allowance on a 'per capita' basis. An allowance f 1¼ annas per mensem will therefore be admissible, with effect rom the 1st February 1918, for each recruit attending the schools f the above mentioned corps in addition to the allowances authorised n Army Regulations, India, Volume I, for the period of the war.

This supersedes, with effect from the above date, the grant sanc- ioned in Army Department letters No. 50176-3 (A. G.-5), dated the th October 1917, and No. 21674-9 (A. G-5), dated the 11th 'ebruary 1916, in so far as the 1st and 2nd Sappers and Miners re concerned.

The extra expenditure involved is debitable to the ordinary rant and head of account affected.

[50176 (A. G.). / C.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 141 of 1918.

DELHI,

19th February 1918.

141. Appointment of pay dafadars in non-silladar cavalry regiments and abolition of orderly dafadars in those regiments.

Sanction has been accorded to the appointment of pay dafadars for non-silladar cavalry regiments on the scale of one for each half squadron on extra duty pay of Rs. 5 each per mensem. It has also been decided that the appointments of orderly dafadars now admissible in those regiments on the scale of one in each half squadron, on extra duty pay of Rs. 1-13-10 per mensem shall be abolished.

The extra expenditure involved is debitable to the ordinary grant and head of account affected in the Army estimates.

[55034 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 141 of 1918.

DELHI,

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The extra expenditure involved is debitable to the ordinary grant and head of account affected in the Army estimates.

[55034 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 142 of 1918.

DELHI,

19th February 1918.

142. Provision of chargers for officers on probation for the Indian Army Reserve, attached to Indian Cavalry regiments.

It has been decided that the provisions of Army Department letter No. H.-4911,* dated the 15th May 1915, shall govern the issue of chargers to officers on probation for the Indian Army Reserve, attached to Indian Cavalry regiments.

* Communicated to General Officers Commanding, Divisions and Independent Brigades, under Adjutant General's No. 24817-5 (A. G.-7), dated 19th May 1915.

[55208 (A. G.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 143 of 1918.

DELHI,

19th February 1918.

3. Rates of separation allowance for families of soldiers belonging to the Indian Defence Force.

It has been decided that, with effect from the 1st April 1917, separation allowance, at the rates shown below, shall be admissible to soldiers of the Indian Defence Force who are European British subjects, other than Government servants, and who are called away from their homes for actual military duty :—

	Rs. per mensem.
Wife only	60
Wife and 1 child	85
" " 2 children	102
" " 3 "	112
" " 4 "	122
Each additional child	10
Each motherless child	24

The issue of these allowances will be governed as far as applicable by the Regulations for the issue of Army Separation Allowance and will be extended to dependants in the manner provided for therein. A compulsory allotment of six annas per diem will be made from the pay of every soldier in respect of whom an allowance is granted. The allowance will not be admissible for the

period spent at a camp of exercise in the course of periodical tra' ing, unless such period is immediately preceded, or followed, by further period of actual military duty qualify ng for separatio allowance.

[47055 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 144 of 1918.

DELHI,
19th February 1918.

144. Spare barrels issued with Lewis guns.

It has been decided that the spare barrel issued with Lewis guns should be held on charge by units for mobilization purposes only, as in the case of Maxim guns.

The barrel should not, therefore, be taken into use in the same manner as an ordinary spare part issued with the gun.

[7745 (D. G. O.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 145 of 1918.

DELHI,

19th February 1918.

Indian machine gun companies in Mesopotamia. Pay and allowances.

[illegible] has been decided that the British officers, Indian [illegible] and Indian rank and file of Indian machine gun companies serving in Mesopotamia shall receive the following rates of [pay an]d allowances with effect from the date of the formation of [the c]ompanies :—

[illegible] officers . .	Indian Army pay of rank and staff pay as for Indian Infantry.
[illegible] allowance . .	Rs. 8 per mensem for each officer.
[illegible] officers . .	Indian Army pay and allowances as for Indian Infantry.
[illegible] major and quarter-[mast]er havildar.	*Extra* duty pay as laid down in paragraph 901, Army Regulations, India, Volume I.
[non-co]mmissioned officers, [illegible]s and drivers.	*Extra* duty pay as laid down in paragraph 901, Army Regulations, India, Volume I, *for machine gun sections of Indian Infantry, provided they are required to look after the mules as stipulated in footnote (g) of the above paragraph.*
[illegible]rs . . .	Signalling allowance as laid down in paragraph 968, Army Regulations, India, Volume I.
[illegible]albund and mochi	Pay as for Mountain Artillery (paragraphs 893 and 912, Army Regulations, India, Volume I.)

..mourer of an Indian ..ne gun company has only .. look after the arms of one company, the allowance to the armourer out of the contract allowance of the company commander (as laid down in paragraph 667, Army Regulations, India, Volume II), will be reduced proportionately (*i.e.*, not less than Rs 7-8-0 per mensem for each company).

* As for a company of Indian Infantry—*vide* paragraph 243 A, Army Regulations, India, Volume I.

..tter No. 18219, dated the 10th Decem-..d.

[55043 (A. G.). / B]

A. H. BINGLEY, *Major-General*;
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 146 of 1918.

DELHI,

19th February 1918.

146. Pay of civil Government servants holding temporary commissions in the British Army, who are on military duty in India.

It has been decided that civil Government servants holding temporary commissions in the British Army, who are on military duty in India, shall receive pay and allowances as laid down for officers of the Indian Army Reserve in clause 2 (*a*) of *Gazette of India*, Army Department, Notification No. 60-A., dated the 15th January 1915.

[O.-1209 (A. G.-6). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 147 of 1918.

DELHI,

19th February 1918.

147. Remuneration for writing addresses on special post cards.

With reference to the allowance sanctioned in Army Department letter No H.-2744,* dated the 5th January 1915, for extra clerical labour employed in addressing the special post cards issued to the relatives of Indian soldiers and followers (including Imperial Service Troops and followers) who are on service overseas in order to lessen their difficulty in addressing their correspondence, it has been decided that a permanent clerk employed in this connection may be permitted to draw the remuneration referred to above.

*Communicated to Controllers of Military Accounts under the same No. and date.

[52759 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 148 of 1918.

DELHI,
19th February 1918.

148. Leave pay of officers invalided from expeditionary forces.

It has been decided that, with effect from the 17th February 1917, officers who are wounded on or invalided from field service and granted sick leave out of India shall be allowed the *full* pay of substantive rank and half staff pay of substantive regimental or departmental appointment for six months, in continuation of the three months' leave on full pay to which they are already entitled under the terms of Army Department letter No. H.-4774, dated the 10th May 1915.

These orders apply to all officers of the Indian Army and the Indian Medical Service (except those mentioned in Army Regulations, India, Volume II, paragraph 226) and to British Service officers under the Indian Army leave rules.

Officers who were on sick leave on the 17th February 1917, and who had by that date completed the three months on full pay may, irrespective of the periods for which they have been on leave, receive pay and half staff pay as from that date for a maximum period of six months, provided that the limit of two years from date of being struck off duty is not exceeded.

If an officer having been invalided from Mesopotamia or elsewhere to India does duty in India, and is afterwards invalided home, such period of duty will not count as part of the time during which he is entitled to full pay and half staff pay, provided that the relinquishment of duty is due to the original disability for which he was invalided from field service.

The above concession will not apply to officers who are invalided on account of disabilities for which they are personally responsible.

Last-pay certificates issued in India for officers invalided fro
he field should contain full particulars of the pay drawn fro
he date of being struck off duty in the field.

The extra expenditure involved is debitable to His Majest
Government through the Controller of War Accounts.

[23502 (A. G.-6)-B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of Indi

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GOVERNMENT OF INDIA.

'ARMY DEPARTMENT.

MY INSTRUCTION (INDIA).

No. 149 of 1918.

DELHI,

19th February 1918.

ıspension, for the period of the war, of the ules in paragraph 23, Army Regulations, ndia, Volume I, regarding the grant of taff pay on passing certain language tests.

been decided that the provisions of paragraph 23, Army ıs, India, Volume I, shall be suspended for the period ır in the case of officers of all categories employed in the Vorks Services.

[3858 (M. W.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 150 of 1918.

DELHI,
19th February 1918.

ınt of wound and injury pensions to men the Burma Military Police attached to e Indian Army.

een decided that in future when men of the Burma olice have been on field service and after return to battalions are declared unfit for further service on wounds or injuries received on field service, the certificate medical officer may be accepted when a wound or injury he 3rd degree is recommended. But in a case in which [illegible] ın should [illegible] pension [illegible] nding of

[34 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

RMY INSTRUCTION (INDIA).

No. 151 of 1918.

DELHI,

19th February 1918.

1. **Increase in the allowances for petty supplies sanctioned for Brigade Staffs of Royal Field Artillery and Ammunition Columns and batteries of Royal Field Artillery.**

Sanction is accorded, for the period of the war, to the increase in e allowances for petty supplies, shown in the enclosure to Army epartment letter No. 11713-7 (Q. M. G.-6), dated the 22nd ugust 1913, by one-sixth in the case of Brigade Staffs, Royal ield Artillery and Ammunition Columns, and one-third in the case batteries of Royal Field Artillery.

[30310 (Q. M. G.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the G... of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 152 of 1918.

DELHI,

19th February 1918.

152. Bonus admissible to non-combatants on being re-enrolled as combatants.

It has been decided that when a non-combatant who has received the bonus of Rs. 20 authorised in Army Instruction (India), No. 34 of 1918, is formally discharged and is re-enrolled in a combatant branch of the Indian Army, the further bonus payable to him will be Rs. 30 only, which will be paid on his being passed fit by the medical officer of the unit in which he is enlisted.

[58642 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 153 of 1918.

DELHI,

19th February 1918.

153. Decision that Gentlemen Cadets should travel on warrant.

Gentlemen cadets, when entitled to passage at the public expense, will travel on warrant, the scale of baggage allowed being that authorised for subalterns in Army Regulations, India, Volume X, paragraph 104.

[37737(Q. M. G.-1). / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA).

No. 154 of 1918.

DELHI,

19th February 1918

154. Increase to the establishment of the Lahore Armoured Car Unit.

It has been decided to increase the establishment of the Lahore Armoured Car Unit referred to in Army Department letter No 10145, dated 18th July 1917, by one sergeant, to be called out for the period from 1st January 1918 to 30th June 1918 to act as an instructor

[14538 (A. O.) / E.]

A. H. BINGLEY, *Major General,*

Secretary to the Government of India

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 155 of 1918.

DELHI,
19th February 1918.

155. D [illegible] Army Commanders [illegible] ot wound or injury [illegible] to Indian ranks of [illegible] refuse to undergo operations for wounds, disabilities, etc.

It has been decided to delegate to Army Commanders authority to determine whether or not wound or injury pensions are admissible to Indian ranks of the Indian Army who refuse to undergo operations for wounds, disabilities, etc.

[36262 (A. G.-0.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 156 of 1918.

DELHI,

19th February 1918.

Extra clerical assistance for depôts of Indian units, etc.

No. 11821, dated the 19th October 1916,
No. 13305, dated the 17th November 1916, as amended by—
No. 2161, dated the 13th February 1917,
No. 3769, dated the 13th March 1917,
No. 3898, dated the 15th March 1917,
No. 4725, dated the 3rd April 1917,
No. 4986, dated the 11th April 1917,
No. 10046, dated the 25th October 1917.

Communicated to General Officers Commanding, Divisions and Independent Brigades, and to Controllers of Military Accounts.

In supersession of the orders contained in the marginally noted Army Department letters, the Government of India sanction the following measures:—

(i) A sum of Rs. 200 per mensem will be placed at the disposal of Officers Commanding all Indian units and depôts for the purpose of obtaining extra clerical assistance for accounts work. The clerks employed may either be enlisted military clerks or civilian clerks. The Officer Commanding may, in the interests of the unit or depôt, utilise part of this allowance for the purpose of rewarding clerks at present employed. The extra allowance will be admissible to Officers Commanding, Indian Convalescent Sections, and Officers Commanding, Central Followers' Depôts.

For the purposes of this sanction the following combined d.
will be considered as two separate depôts—.

1st and 2nd Battalions, 23rd Sikh Pioneers.
1st and 2nd Battalions, 101st Grenadiers.
2nd and 3rd Battalions, 3rd Queen Alexandra's Gurkha Rifles.

Army Department letter No. 471,* dated the 11th January 1 is cancelled, as under the power conferred Officers Commanding will be able to reward good clerks.

* Communicated to General Officers Commanding, Divisions and Independent Brigades, and to Controllers of Military Accounts.

(ii) The employment of eight head clerks who should Europeans or Anglo-Indians on salaries ranging f Rs. 300 to Rs. 400 per mensem with a deputa allowance of 20 per cent. of their salaries under Ar 81, Civil Service Regulations The pay of head cl whose civil pay is below the minimum spec above will be brought up to the minimum, i.e., Rs 300, and the deputation allow...

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 157 of 1918.

DELHI,

19th February 1918.

Procedure to be followed when non-commissioned officers of the Indian Army are promoted in error.

It has been decided that the principles of War Office letter* General No.—2380 (A. G.-5), dated the 25th September 1911, shall be made applicable to the Indian Army, and the following rules have accordingly been approved to govern the ocedure to be followed when promotions have been made in ror and in the absence of an existing vacancy in the non-comissioned ranks :—

* Copy attached as annexure to this Instruction.

(i) When completed, such promotions will hold good and will not be liable to cancellation on the ground of having been made in error.

(ii) The question of pay will be dealt with under paragraph 933, Army Regulations, India, Volume I. Under this paragraph, the pay of the higher rank to which the non-commissioned officer is promoted is only available from the day following the casualty causing the promotion, or, if the promotion is from one regiment or battalion to another, from the date of being struck off the old regiment or battalion. When, therefore, no vacancy exists, the pay of the higher rank will not be issued from the date of the discovery of the error in respect of the promoti

(iii) The question of responsib[illegible] loss which may be caused to the public by [illegible] error will be sub[illegible]

Government of India; it being clearly understood that the officer who makes an irregular promotion of this nature may be held liable for any financial loss which results from such promotion.

The foregoing instructions apply to all promotions made in error, and in the absence of a vacancy, and are therefore applicable to any promotion which is consequent upon, or results from, a promotion made in error

[68526 (A G) / B.]

A H BINGLEY, *Major General,*

Secretary to the Government of India

18-General No.—2380 (A. G. 5)

MEMORANDUM.

Showing the position of non-commissioned officers who have been promoted in error, and the procedure to be followed in regard to such promotions.

Cases having occurred in which promotions in, and to, the rank of non-commissioned officer have been made in error, and in the absence of an existing vacancy, it is desirable that there should be a clear understanding as to the position of the non-commissioned officers so promoted.

It is therefore notified for general information and guidance that every such promotion when completed holds good, and is not liable to cancellation on the ground of error in making the promotion.

The question of pay will be dealt with under Army Act, section 136, and article 893 of the Royal Warrant for Pay. Under this article the pay of the higher rank to which the soldier is promoted is only issued to him from the date of the vacancy to which he succeeds.

When, therefore, no vacancy exists, it has been decided that, from the date of discovery of the error in respect of the promotion, pay of the higher rank shall not be issued.

In these circumstances the non-commissioned officer affected will be given the option, should he desire to do so, of voluntarily resigning the higher rank to which he has been promoted in error. If he elects to retain his rank he will not draw the higher rate of pay until such time as he is absorbed into a vacancy.

The question of responsibility for any loss which may be caused to the public by reason of a promotion made in error will be submitted for consideration by the Army Council; it being clearly understood that the officer who makes an irregular promotion of this nature may be held liable for any financial loss which results from such promotion.

The foregoing instructions apply to all promotions made in error, and in the absence of a vacancy, and are therefore applicable to any promotion which is consequent upon, or results from, a promotion made in error.

WAR OFFICE,

25th September 1917.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 158 of 1918.

DELHI,

19th February 1918.

158. Formation of a Royal Engineer training company in India.

It has been decided to form a Royal Engineer training company in India in accordance with the scheme outlined in the Appendix to this Instruction. A sum of Rs. 7,360 initial and Rs. 736 per annum recurring is sanctioned to meet the cost of the provision of technical equipment and stores for the training of this company. The following additional equipment will be issued by the *Ordnance Department* :—

Carpenters' tools . . .	2 sets.
Blacksmiths' tools . . .	2 sets *plus* 2 sets of large bellows and 2 anvils.
Tinsmiths' tools . . .	1 set.
Saddlers' tools . . .	1 set.
Bricklayers' tools . . .	1 set.

An office and contract allowance of Rs. 20 per men will be admissible, the amount being increased mensem for every additional 50 men above that nu

The expenditure involved is estimated at Rs. 9,0 Rs. 1,865 annually recurring. The recurring expen as the cost of expendable stores, will be debited to His Government through the Central War Controller. The of equipment and of non-expendable stores should be debited ordinary grant and head of account.

[57787 (A. G.). / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

service in India, any numbers required to complete establishment being found from men fit and available as reinforcements. If the necessary ranks are not available from these sources, acting rank may be given to men of Royal Engineer Field Units unfit for despatch as reinforcements. All ranks on the staff of the Company will be liable to be sent on service, when fit, as draft reinforcements.

The above staff may be increased from time to time, as considered necessary, up to the number of non-commissioned officers actually available for duty with the Company.

It is considered that the services of a sufficient number of Royal Engineer clerks will always be available at the depôt for clerical duties.

Returns.—On the 28th of each month the Officer Commanding, Training Company, will render to the Adjutant-General in India a return in the form attached, and from this information draft reinforcements will be detailed by the Adjutant-General in India.

Statement of tradesmen on the strength of the Training Company, India, on 1918.

(To be submitted direct to the Adjutant General in India on the 25th of each month.)

Trade categories. (to be detailed)	Royal Engineers Field Companies.		Royal Engineers (T.F.) Field Companies		Royal Engineers Field Troops.		Electrical and Mechanical Section.		No. 47 Base Park Company, R.E.		R.E. personnel of I.W.T.		Searchlight Company.		Regular R.E. personnel of Works Company.		Other miscellaneous details.		Remarks.
	Fit.	Unfit.	Fit.	Unfit.	Fit.	Unfit.	Fit.	Unfit.	Fit.	Unfit.	Fit.	Unfit.	Fit.	Unfit.	Fit.	Unfit.	Fit.	Unfit.	

(18)

G.C.P.I., Delhi—No. 91 A.I.—15-2-18—4,976.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 160 of 1918.

DELHI,

26th February 1918.

Free medical attendance for nursing orderlies of the St. John Ambulance Brigade.

has been decided that nursing orderlies of the St. John Ambulance Brigade employed under the terms of Army Department No. 1371, dated 22nd February 1916, are entitled to free attendance for themselves, as in the case of British soldiers, to the recovery of hospital stoppages as laid down in Army ...ons, India, Volume I, paragraph 645.

[10069 (D. M. S.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 161 of 1918.

DELHI,

26th February 1918

161. Corrigenda.

In the Appendix to Army Instruction (India) No. 98, date 29th January 1918, insert the following corrections :—

After " Period of wear " in the heading of column 2, inser the word " Years.".

Against " Pantaloons, cord, khaki " insert the figure " 1 " i column 2.

Against " Knife, clasp, with lanyard, " insert the figure " 1 " in the column headed " Infantry."

[37205 (Q. M. G.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 162 of 1918.

DELHI,

26th February 1918.

162. Incidence of cost of mess equipment supplied and of the money allowances given in lieu thereof to the messes of certain units and depots, etc.

Army Department letters No. 12213-1 (M. W. 5), dated the 22nd February 1915, No. H. S.-402, dated the 27th January 1916, and No 5839, dated the 23rd April 1917.

In supersession of the orders conveyed in the marginally cited letters, in so far as they relate to the incidence of the cost of mess equipment and the grant of money allowance in lieu thereof, the Government of India have decided that the cost of mess equipment supplied, and of the money allowances given in lieu of such equipment, to the messes of [illegible] units and depôts, etc., to which the provisions of Army Department letter No. 11603 (M. W. 2), dated the 24th November 1914, as modified by that Department letter No. 1578[illegible]-1 (M. W. 1), dated the [illegible] or extended, sh[illegible] assed to the Co[illegible] expenditure incurred in the supply of such equipment since the 1st April 1917 should be adjusted in accordance with these orders.

[3261 (M. W. 5). / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 163 of 1918.

DELHI,

26th February 1918.

Rates of pay for officers of the Army Service Corps attached to the Supply and Transport Corps in India, officers of the Army Service Corps serving with Mechanical Transport Companies, Motor Ambulance Convoys and similar units in India.

[I]t has been decided that the monthly rates of pay for officers [of th]e Army Service Corps attached to the Supply and Transport [Corps] in India, officers of the Army Service Corps serving with [Mech]anical Transport Companies, Motor Ambulance Convoys and [simila]r units in India authorised in Army Department letter* No 14963, dated the 5th October 1917, shall have effect from the dates on which the officers arrived in India, except in the [case o]f Majors who will be paid at the new rates with effect from [1]st October 1917.

*Not reproduced

[I]t has also been decided that the special allowances notified in Army Order 228 of 1916 shall continue to be admissible.

[33098 (Q. M. G. 6). / H.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

Copy of Army Department letter No 14963, dated the 5th [illegible] 1917.

I am directed to inform you that the Right Hon'ble the [illegible] tary of State for India has decided with the approval of the [illegible] Office that the monthly rates of pay of the officers of the [illegible] Service Corps attached to the Supply and Transport Corps of the [illegible] as also of those officers of the Army Service Corps in I[illegible] Mechanical Transport Companies, Motor Ambulance Convoys serving similar units in India shall be as follows :—

	Rs.	A.	P.
Lieutenant Colonel	1,047	8	0
Major, after 2 years in rank	826	4	0
Major, on promotion	735	0	0
Captain, after 3 years in rank and 12 years' service	675	0	0
Captain, on promotion	598	12	0
Lieutenant, on promotion	407	8	0
2nd-Lieutenant	307	8	0

2. The Government of India have decided that—

(i) these rates which are [illegible] and include exchange [illegible] in Army Department letter [illegible] in substitution of the [illegible] dated [illegible] September 1916 shall have effect from the 4th October 1917, except in the case of Majors who will be paid at the new rates with effect from the 1st October 1917, and

(ii) Loss allowance as a separate item for [illegible] larger [illegible] admissible in each case in addition.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 164 of 1918.

Delhi,

26th February 1918.

164. Pay and allowances of Indian Army pensioners re-employed.

It has been decided that Indian Army pensioners who are re-employed in a rank higher than that held when originally discharged shall receive their pensions in addition to pay irrespective of the rank in which they are re-employed. Their re-employed service will not count towards an increased rate of pension.

[O.-998 (A. G. 6). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 165 of 1918.

DELHI,

26th February 1918.

165. Grant of temporary commissions in the Indian Medical Service to civil sub-assistant surgeons.

With the approval of the Right Hon'ble the Secretary of State for India, the Government of India have decided to grant temporary commissions in the Indian Medical Service, during the period of the present war, to [illegible] possession [illegible] n the terms [illegible] recruited from other sources, and on the condition that if the qualifications are not registrable in the United Kingdom the officers should be employed east of Suez only.

* L.M.S or M.B. of the Universities of Punjab, Calcutta, Bombay, Madras and Allahabad and Memberships of the State Medical Faculty of Bengal and College of Surgeons and Physicians, Bombay.

† Army Department No. 9508, dated 27th June 1917.

[16246 (A. D.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 166 of 1918.

DELHI,

26th February 1918.

166. Formation of a standing camp at Chakrata for the accommodation of British details.

Sanction is accorded to the formation of a standing camp at Chakrata for the accommodation of British details during the hot season of 1918 and subsequent hot seasons until a full regiment is again quartered there.

2. The following staff and establishment is authorised :—

1 Commandant at Rs. 200 per mensem staff pay.

1 *Adjutant at Rs. 160 per mensem staff pay.*

and Phy... † Army ... No. 9508, dated ... 1917.

1 Quartermaster Sergeant.

1 ...ng Sergeant Major.

1 ...ly Room Sergeant.

†1 Pay Sergeant.

†1 Provost Sergeant.

†1 Pay clerk.

‡1 Cook Sergeant.

‡1 Assistant gymnasium instructor.

§1 Munshi.

‖1 Range chowkidar.

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*Pay as provided for in paragraph 453, Army Regulations, India, Volume I.

† Extra-duty pay as provided for in paragraph 572, Army Regulations, India, Volume I.

‡ Extra duty pay as provided for in paragraph 564—II and XVII, Army Regulations, India, *Volume I.*

§ Pay as provided for in paragraph 911, Army Regulations, India, Volume I.

‖ Pay as provided for in paragraph 250, Army Regulations, India, Volume I.

Conservancy establishment.—As laid down for Hill Sana in Army Tables Miscellaneous Services, 1916, Part I, Table Section I, with pay at the rates prevailing locally for s establishments.

3. The appointments of the Quartermaster Sergeant and t Range Chowkidar are authorised for the whole year. T remaining staff and establishment are sanctioned for 7 months the year only.

4. The expenditure involved will be debitable to the ordina grant and head.

[5519 (A. G.). / A.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of Indi

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 167 of 1918.

DELHI,
26th February 1918.

Horse allowance for officers of the Infantry Branch, Machine Gun Corps, Mesopotamia.

It has been decided that horse allowance at Rs. 30 per mensem spect of one horse is admissible for each officer of the Infantry ch, Machine Gun Corps, serving in Mesopotamia.

[43159 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 168 of 1918.

DELHI,

26th February 1918.

8. Formation of a reserve of probationary clerks for service overseas.

With a view to facilitate the recruitment of a suitable class of [illegible]ks for service overseas, sanction is accorded to the entertain[illegible]nt of probationary clerks as follows :—

	No.
Each Central Followers' Depôt . . .	10
Combined Labour Depôt, Dadar . .	10
Each Divisional Recruiting Office . .	3
The Deputy Superintendents of Recruitment, Lahore, Bombay, and Calcutta—each .	6
Mesopotamia Labour and Porter Corps Depôts, per unit	3
Depôts of France Labour Companies—each .	10
Jail Labour Corps Depôt, Bareilly . .	10

2. The clerks will be enrolled for the period of the war and [illegible] be paid at the rate of Rs. 30 each *per mensem* while on *pro*[illegible]ion, and at Rs. 50 each *per mensem* when *accepted* as suitable. [illegible] period of [illegible] [illegible]onth. Their overseas [illegible] [illegible] which they selected, [illegible] [illegible] of Rs. 80 per mensem consolidated.

3. Probationers who are found to be unlikely to make efficient [illegible]ks within a reasonable period should be discharged by their [illegible]mmanding Officers.

4. The clerks will not be entitled to free clothing or rations whilst in India.

5. The expenditure involved is debitable to His Majesty's Government and should be passed to the Central War Controller for adjustment.

[1739 (A. G. R.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION—(INDIA).

No. 169 of 1918.

DELHI,

26th February 1918.

169. Enrolment of ward servants for employment overseas.

The following additions are made to Army Instruction (India) No. 64 of 1918:—

In paragraph 1 (3) after "Herdsmen" *add* "Ward servants."

In paragraph 1 (4) after "Assistant Hospital Storekeepers (2nd grade)" *add* "Ward servants."

[01105 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 170 of 1918.

DELHI,

26th February 1918.

170. Decentralisation of administrative work in Army Commands in India.

It is estimated that the sum of Rs. 24,700 will be incurred during the current financial year in connection with the decentralisation of administrative work in Army Commands in India authorised by Army Instruction (India) No. 94 of 1918. To meet this expenditure the sum of Rs. 24,700 is hereby transferred from the "Reserve" under grant 14 of the Army estimates to the grants and head of account stated below :—

Rs. 20,300 to grant I—Administration.

Rs 4,400 to 47—Military Works—Ordinary Demands.

[56066 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 171 of 1918.

DELHI,
26th February 1918.

1. Rules governing the promotion to higher rank of pensioned Indian officers who have been re-employed in combatant units of the Indian Army during the war.

It has been decided that the promotion to higher rank of nsioned Indian officers who have been re-employed in comba-nt units of the Indian Army during the war shall be governed y the following rules:—

(i) Those Indian officers who were re-employed under the terms of India Army Order No. 701 of 1914 may be promoted to higher rank, if considered suitable, medically fit and recommended. When their services are no longer required, these officers will be considered eligible for a higher rate of pension if qualified under paragraph 1035, Army Regulations, India, Volume I.

) Those Indian officers who were re-employed under the terms of Army Department letter No. H. S.-465, dated the being ret suitable, motion subject to the following

(a) Pension will be surrendered from the date of such promotion.

(b) All service subsequent to date of surrender of pension, will count towards a higher rate of pension, if the Indian officer eventually qualifies under paragraph 1035, Army Regulations, India, Volume I.

2. It should be clearly understood that the services of the Indian officers, both under (i) and (ii) above, will be dispensed wi when no longer required and that they have no right to claim continue in the service in order to qualify for a higher rate pension.

3. The expenditure involved will be adjusted in the san manner as the pay charges of units in India.

[60113 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of Indi

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 173 of 1918.

DELHI,

26th February 1918.

173. Grant of authority to Army Commanders to dispose of questions regarding the grant of disability pensions to men of the Indian Army.

It has been decided to empower Army Commanders to dispose of questions regarding the grant of disability pensions to men of the Indian army who have been invalided from the service on account of disabilities aggravated by field service but have spent less than 3 months on such service*. The general principles to be followed in the disposal of such cases are explained in the attached memorandum.

* *Vide* India Army Order No. 797 of 1917.

[68353 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

General principles to be followed in the disposal of cases referred to in Army Instruction (India) No. 173 of 1918.

The conditions under which the pensions for disabilities aggravated by field service are granted are laid down in Army Department letter No. 1825, dated the 7th February 1917 (India Army Order 797 of 1917). Only those cases where a man has spent less than 3 months on field service will be submitted to Army Commanders for decision. Unless a man has spent at least three months on field service, no disability pension is ordinarily admissible; but if the Invaliding Board certifies that the disability would not have occurred under the ordinary conditions of life during peace to such an extent as to necessitate the man being invalided from the service such a pension should ordinarily be granted. For example, prior to proceeding on field service a man may be suffering from some dormant disease which under ordinary conditions would never have appeared or would not have prevented him from completing sufficient service for pension. The rigours of field service, however, aggravate the disease to such an extent as to necessitate his being invalided from the service. In such a case a disability pension under the letter referred to above would be admissible. In other cases, where the Invaliding Board certify that the disability would have occurred under peace conditions, no disability pension would be admissible. Such men should be discharged with the invalid gratuity or retiring pension they may have earned by length of service under the provisions of paragraph 1044-A, Army Regulations, India Volume I.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 174 of 1918.

DELHI,

26th February 1918.

174. Grant of a sum of Rs. 100 to each depôt of Labour and Porter Corps to provide sports gear.

lines 13 and 14 of the marginal entries in Army Instruc- ndia), No. 44, dated the 22nd January 1918, *for* "Porter Depôt, Poona" *read* "Porter Corps Depôt, Pallavaram."

[46099(A. G.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 175 of 1918.

DELHI,

26th February 1918.

175. Disposal of kits of recruits of the Indian Army enlisted on or after 1st October 1917.

With reference to India Army Order No. 1190 of 1917, paragraph 2 (b), it has been decided that articles of personal and public clothing, necessaries, equipment and bedding, shall be treated in the same manner as similar issues to British troops, subject to the following modification :—

Personal clothing and necessaries will remain the property of Government until the soldier has completed three years' service. In the case of men who become non-effective from any cause within that period, the articles shall be taken into regimental store for re-issue if serviceable. If unserviceable, they will be disposed of to the best advantage of the State.

[36996 (Q. M. G.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 176 of 1918.

DELHI,

26th February 1918.

Revised distribution of Senior Assistant Surgeons, Indian Subordinate Medical Department.

'he following distribution of Senior Assistant Surgeons is :ed, in supersession of that laid down in Army Department · No. 117-9, dated the 9th August 1917 :—

	Lieutenants.	Captains.
ıl	14	14
ıs	2	4
ıay	7	6
	23	24
	47	

!. Temporary increases in the number of Senior Assistant :eons, consequent on the employment of military medical is as temporary Assistant Surgeons during the period of the will be utilized by promoting Assistant Surgeons according eniority and merit, irrespective of the presidential establishts to which they belong.

[14985 (A. D.). / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 177 of 1918.

DELHI,
26th February 1918.

177. Grant of compensation in lieu of renewals of personal clothing in kind.

It has been decided that compensation in lieu of renewals of personal clothing in kind is admissible to all British soldiers to whom the system of renewals in kind is applicable. The rates of compensation are those laid down in the Price List of Clothing and Necessaries.

To qualify for compensation a soldier must be in possession of the full prescribed scale in a good and serviceable condition when replacements become due.

The soldier is liable for any renewals which may be necessary ing the period for which he has received compensation.

[37632 (Q. M.G.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 178 of 1918.

DELHI,

26th February 1918.

178. Pay and allowances of Assistant Recruiting Officers.

It has been decided that officers of the Indian Army and Indian Army Reserve who are employed on recruiting duty as Assistant Recruiting Officers shall be granted Indian Army pay of rank *plus* staff pay at Rs. 250 per mensem *plus* exchange compensation allowance.

2. This decision has retrospective effect in the case of those Assistant Recruiting Officers to whom a special allowance of Rs. 150 per mensem in addition to pay of rank has hitherto been admitted.

[66911 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 179 of 1918.

DELHI,

26th February 1918.

. Issue of additional stores and explosives to Pioneer units and depôts.

Sanction is accorded to the issue of the additional stores and losives detailed in the accompanying statement to all Indian neer units and depôts.

... involved, which is estimated at Rs. 10,500 initial ... ordinary grant

[7178 (D. O.O.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

Scale of additional stores and explosives for Indian Pioneer units and depôts.

No.	Articles.		Number or quantity.	Remarks.
	Section 2-A.			
1	Mauls, G. S. (with helves)	No	6	Equipment.
	Section 2-B			
2	Lines, tracing	„	10	„
3	Tapes, tracing	„	24	„
	Section 7			
4	Pincers, carpenters	„	20	„
	Section 8-A			
	Cordage, hawser, 3-strand white, prepared in oil—			
5	3-inch	fms.	100	„
6	1½-inch	„	200	„
7	1-inch	„	450	„
8	Cordage, spun yarn, 3-thread, white	cwt	0-0-20	„
9	Line, log	skns	10	„
	Blocks, tackle, G. S.			
10	2-inch, single	No	1	„
11	„ double	„	1	„
12	„ treble	„	1	„
13	„ snatch	„	1	„
14	1½ inch, single	„	1	„
15	„ double	„	1	„
16	„ treble	„	1	„
17	„ snatch	„	1	„
	Section 25			
18	Dynamite	lbs.	20	Annual supply.
19	Gunpowder, shell, L. G.	„	100	„ „
20	Gun cotton, dry, primers, field, 1-oz.	No	200	„ „
	Section 26.			
21	Detonators, No. 8	„	250	„ „
	Fuze—			
22	Instantaneous	yds.	100	„ „
23	Safety	fms	200	„ „
	Section 29-D.			
24	Mittens, hedging	Prs.	50	Equipment.
	Standards, wire entanglement—			
25	6 feet	No.	120	„
26	4 feet 0 inches	„	60	„

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 180 of 1918.

DELHI,

26th February 1918.

Provision of a coloured print of a 2·75" buffer cylinder, with explanatory description, for mountain batteries armed with 2·75" B. L. guns.

nction is accorded to the provision, for instructional purposes, large coloured print and explanatory description of a 2·75" buffer cylinder, in the proportion of one of each per mountain y armed with 2·75" B. L. guns.

he cost involved, which is estimated at Rs. 318 initial and 0 annual recurring, is debitable to the ordinary grant and of account affected in the Army estimates.

[8260 (D. G. O.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 181 of 1918.

DELHI,
26th February 1918.

181. Additional farriers' tools for Indian Non-Silladar Cavalry Regiments.

The supply of the undermentioned farriers' tools, in addition to those authorised by Tables IX and XIII of Army Tables of Body-guards and Indian Cavalry, 1916, to each Indian non-silladar cavalry regiment is approved :—

Articles.	No. per unit.
Buffers, farriers	8
Chisels, farriers, handled	8
Hammers, farriers—	
Shoeing	8
Turning	4
Knives, farriers, drawing	16
Pincers, farrier	Pairs 8
Rasps, farriers, 16-inch	No. 16

The expenditure involved, which is estimated at Rs. 282 initial and Rs. 48 recurring, is debitable to the ordinary grant and head of account affected in the Army estimates.

[8439 (D. G. O.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 182 of 1918.

DELHI,

26th February 1918.

182. Grant for the purchase of practice ammunition for artillery units of the Indian Defence Force.

Sanction is accorded to the increase of the grant for the purchase of practice ammunition for artillery units of the Indian Defence Force, *vide* paragraph 222 of "Rules and Regulations for the Indian Defence Force (Provisional)", from Rs. 25,000 to Rs. 27,592-6-10, for the financial year 1917-18 only.

[$\frac{\text{O. B. 227 N. F.}}{\text{E.}}$]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 183 of 1918.

DELHI,

26th February 1918.

3. Grant of sub-charge allowance to sub-assistant surgeons in sub-medical charge of Indian troops' war hospitals.

It has been decided that sub-assistant surgeons in sub-
dical charge of Indian troops' war hospitals and other similar
ats which have been established in India for the reception and
eatment of sick and wounded returning from overseas, shall
ceive sub-charge allowance at the rates shown below:—

Prior to 29th January 1918.

	Rs.
For 100 beds	10
For 200 „	20
For 300 „	30
For 400 „	40
For 500 „	50
For 600 „	55
For 700 „	60
For 800 „	65
For 900 „	70
For 1,000 „ and over	75

On and after 29th January 1918.

	Rs.
For 100 beds and under	15
For 101 „ to 150 beds	20
For 151 „ to 250 „	30
For 251 „ to 400 „	40
For 401 „ to 500 „	50
For 501 „ to 600 „	60
For 601 „ to 700 „	70
For 701 „ to 800 „	[illegible]
For 801 „ to 900 „	[illegible]
For 901 „ and over	[illegible]

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General.—The battalions will be self-contained in every way. Men transferred thereto will be struck off the strength of their original battalions and their accounts transferred to and administered in their new units.

The expenditure is debitable to His Majesty's Government and should be passed to the Central War Controller for adjustment.

[O. 1097 (A.G.) / E]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 185 of 1918.

DELHI,

26th February 1918.

185. Schools of instruction for non-commissioned officers in the Northern and Southern Commands.

Sanction is accorded to the formation of schools of instruction for junior non-commissioned officers and young soldiers of British and Indian units in the Northern and Southern Commands.

1. Schools will be established as follows :—

Northern Command.—Headquarters.

1 Company, British.
3 Companies, Indian.
½ Squadron, Indian.

Southern Command.—Headquarters.

1 Company, British.
2 Companies, Indian.
½ Squadron, Indian.

2. The Northern Command school will be located at Rawalpindi during the winter and at Abbottabad during the summer. The Southern Command school will be located at Secunderabad.

3. The schools will be conducted on the lines of Army Council Instruction No 394 of 1916. The maximum number of students per company will be 200 and per ½ squadron 100.

4. The scales of staff and establishments, musketry appliances and allowances are shown in Schedules "A" and "B" attached to this instruction. The pay and allowances laid down

admissible from the 23rd December 1917 or from such later date as officers and non-commissioned officers take up the duties of their appointments.

5. The expenditure is debitable to His Majesty's Government and will be adjusted through the Controller of War Accounts.

[19002 (G. S.). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

SCHEDULE "A".

Staff and Establishments.

——	Each Headquarters.	Each Company, British	Each Company, Indian.	Each ½ Squadron.
Commandant (Temporary Lieutenant-Colonel, graded G. S. O. 1).	1	...	...	...
Adjutant	1	...	...	...
Quartermaster	1	...	...	...
Company Commander	...	1	1	1
Subaltern	...	1 (if number of students exceeds 100).	...	...
„ for Physical and Bayonet Fighting.	1	...	...	...
Serjeant-Major	1	...	..	...
Quartermaster Serjeant	1	...	...	...
Company or Squadron Serjeant-Major.	...	1	1	1
Colour Serjeant Instructor, Musketry.	1	...	...	...
Serjeant Instructors	...	1 per 20 students.	1 per 50 students.	1 per 50 student
Orderly Room Serjeant	1	...	...	...
Indian Adjutant	1	...	...	...
Indian officers	...	...	1 per 100 students.	1
Indian Non-commissioned Officer Instructors.	...	...	1 per 12 students.	1 per 12 students.
Junior Non-commissioned Officers and young soldiers under instruction.	...	200	200	100
Bhistis	...	2	2	1
Sweepers	...	2	2	1
Bildars	...	1	1	1
Filth cart with driver and bullock.	1	...	...	...

admissible from the 23rd December 1917 or from such later date as officers and non-commissioned officers take up the duties of their appointments.

5. The expenditure is debitable to His Majesty's Government and will be adjusted through the Controller of War Accounts.

[19002 (G. S.). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

	Initial.	Recurring (per annum.)
	Rs.	Rs.
Brought over		1,16,379
Provision of obstacle courses		
Northern Army School	250	25
Southern " "	250	25
Provision of bayonet fighting equipment.		
Northern Army School	250	240
Southern " "	250	240
Contingent allowance (including targets and range appliances).		
Northern Army School, at Rs 200 per mensem	...	2,400
Southern Army School, at Rs. 150 " "	...	1,800
Allowance for office and stationery, per school, at Rs. 100 per mensem	...	2,400

Musketry appliances (including those issued under the authority of Army Department letter No. 15437, dated 13th October 1917).

	Rate.	N. A.	S. A.	Total	Initial	Recurring
Rests, tripod, musketry instruction	£ 0 4 9	108	84	=192	684	140*
Bag, sand, dosootie	Rs. 0 12 0	225	175	=400	800	300†
Aim correctors	£ 0 2 3	14	11	=25	43	10*
Aim teachers	£ 0 3 1	14	11	=25	58	12*
Boards, black, 4'×3', with easel	Rs. 16 8 0	14	11	=25	413	84*
Cartridges, S. A. dummy drill	Rs. 20 0 0 per thousand	9,000	7,000	=16,000	320	64*
Rifles, short, ·22" R.F.	£ 2 10 0	24	24	48	1,800	360*
Ammunition ·303" for say 8,000 students at 50 rounds each	Rs. 42 0 0 per thousand.	...		=400,000	...	16,800
Ammunition, ·22"	Rs. 11 0 0 per thousand.	18,000	14,000	=32,000		
		per class		=160,000	...	1,760*
Actions, skeleton M. L. E	Rs. 2 2 0	5	5	=10	22	5*
Mittens, hedging, pairs	Rs. 1 12 0 per pair.	12	12	=24	42	10*
Cost of move of Northern Army non-commissioned officers' school to and from Abbottabad					....	2,000
Total					4,082	[illegible]

* At 20 per cent. recurring. † At 100 per cent. recurring

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 186 of 1918.

Delhi,

5th March 1918.

38. Pay of officers of the Indian Army holding acting regimental rank when invalided.

It has been decided that the orders contained in India rmy Order No. 1034 of 1917, regarding the pay of officers of e Indian Army holding acting regimental rank at the time of eing invalided, shall be cancelled.

[61224 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 188 of 1918.

DELHI,

5th March 1918.

188. Corrections to the revise of paragraphs 4 to 19, Army Regulations, India, Volume III (Provisional Issue).

The following corrections to paragraphs 6 and 13-L of the "Revise of paragraphs 4 to 19, Army Regulations, India, Volume III," published with Army Department letter No. 14841-1 (A. D.), dated the 21st November 1917, are approved :—

In paragraph 6 (VI) and note and paragraph 13-L (VIII), *for* the words "Assistant Directors of Ordnance Stores" *substitute* "Ordnance Officers in charge of arsenals."

[9979 (D. G. O.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 189 of 1918.

DELHI,

5th March 1918.

189. Supernumerary appointments of jemadars, havildars and naiks in Indian infantry battalions and depots.

With reference to paragraph 1 (2) of India Army Order No. 668 of 1917, the following supernumerary appointments are authorised with a view to their allotment to selected battalions and depôts:—

10 Jemadars,

10 Havildars,

10 Naiks.

2. These appointments will be filled by the Adjutant General in India in the manner and under the conditions specified in the India Army Order quoted above.

3. The men so appointed will be absorbed in the first vacancy occurring in their class in the unit to which they are allotted.

4. As supernumeraries become absorbed, fresh appointments are authorised to be made by the Adjutant General in India up to the limits mentioned in paragraph 1 above.

[0840 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 190 of 1918.

DELHI,
5th March 1918.

190. Grant of a special advance of Rs. 450 to chaplains on the Indian establishment to meet the cost of field service clothing, camp kit, etc.,

It has been decided with the approval of the Right Hon'ble the Secretary of State for India that British chaplains who may in future be appointed for duty with the Force in Mesopotamia and who receive pay and allowances under Indian rules, may, in addition to the usual advance of one month's pay admissible to officers proceeding on service overseas, draw a special advance not exceeding Rs. 450 to meet the cost of uniform, camp kit, etc., required for use in the field. This special advance will be recovered, monthly, to the extent of the field allowance issuable under paragraphs 381, 383, and 387, Army Regulations, India, Volume I, till the whole has been adjusted.

In the event of a chaplain dying or reverting to duty in India before the advance has been recovered in full, any portion not recoverable from the field allowance will be written off as a charge against the War Office.

[14605 (A. D.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 187 of 1918.

DELHI,
5th March 1918.

'. Decision that, in the case of a journey performed partly by rail and partly by road, the rail journey may be completed by warrant and the road journey by travelling allowance.

It is notified that paragraph 85-VI, Army Regulations, India, ume X, has been reconstructed as shown below:—

"All other inspecting officers will ordinarily travel on warrant, en moving on inspection duty, but may, at their option, draw relling allowance for any such journey.

In the case of a journey performed partly by rail and partly by d, the whole journey may be completed either by warrant or by 'lling allowance, or the rail journey by warrant and the road ney by travelling allowance, at the option of the officer cerned.

The officers mentioned in clause V above, for whom reserved mmodation is admissible under rule when travelling by rail, also draw travelling allowance by road if they so desire, but hat case they will be restricted to the road allowance admissible paragraph 29."

[37513 (Q. M. G.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 191 of 1918.

DELHI,
5th March 1918.

191. Sub-charge allowance for assistant and sub-assistant surgeons in sub-medical charge of a section of a combined field ambulance.

191. It has been decided that, for the period of the war, sub-charge allowance at Rs. $\frac{30}{10}$ per mensem will be admissible to $\frac{\text{an assistant surgeon}}{\text{a sub-assistant surgeon}}$ for the sub-charge of $\frac{\text{a British}}{\text{an Indian}}$ section of a combined field ambulance for which a separate dispensary is maintained, whether the section is detached or not.

[$\frac{\text{1052 (D. M. S.)}}{\text{D.}}$]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 192 of 1918.

DELHI,

5th March 1918.

2. Admission of family pension to the widow of a retired departmental officer with honorary rank or warrant officer who is re-employed during the war.

The question has been raised whether a family pension is admissible to the widow of a retired departmental officer with honorary rank who is re-employed on account of the war and marries or re-marries after retirement, such marriage or re-marriage taking place either previous to, or during, the period of re-employment.

It has been decided that a case of this nature would be for consideration on the analogy of article 661 of the Royal Warrant, *i.e.*, if the widow was otherwise eligible, a family pension would be admissible to her. Similarly, the widow of such an officer dying from any of the causes referred to in article 11 of the Royal Warrant of the 1st August 1917, published as an Annexure to India Army Order, No. 1264 of 1917, should be regarded as eligible for pension at the intermediate or highest rate.

The widow of a warrant officer of an Indian department who marries under the above mentioned circumstances will be dealt with under the rules for that rank.

[49190 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of Ind

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

MY INSTRUCTION (INDIA).

No. 193 of 1918.

DELHI,
5th March 1918.

3. Decentralisation of administrative work in Army Commands in India.

Army Instruction (India) 94 of 1918 should be amended as lows :—

ANNEXURE A.

Under "Staff and Establishments of a Command" *for* "1 ssistant Director of Ordnance Stores, R. A. pay (Lieutenant olonel)" *read* "1 Assistant Director of Ordnance Services ieutenant-Colonel)."

Under "Distribution" *for* "Assistant Director of Ordnance ores" *read* "Assistant Director of Ordnance Services."

[7478 (D. G. O.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 195 of 1918.

DELHI,

5th March 1918.

195. Temporary modification of paragraph 955, Army Regulations, India, Volume II, on the resuscitation of Pioneer classes.

On the resuscitation of Pioneer classes it has been decided that, for the period of the war, the terms of Army Regulations, India, Volume II, paragraph 955, shall be modified in the following particulars :—

(a) The classes will be of two months' duration, both for British officers and Indian officers and other ranks, and will be held twice yearly, at the headquarters of the 1st, 2nd and 3rd Sappers and Miners. Each class will consist of a maximum of 8 British officers and 35 Indian officers and non-commissioned officers.

In addition to the allowance for materials laid down in the above-quoted regulation, an allowance of Rs. 30 per mensem for 1 Indian officer instructor and Rs. 5 per mensem, each, for two non-commissioned officer instructors will be granted for each class.

[17296 (G. S.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 196 of 1918.

DELHI,
5th March 1918.

96. Grant of authority to General Officers Commanding Divisions to sanction increased rates of detention allowance in the case of officers who are unable to pay for passages for themselves or their families and are granted free passage.

As a temporary measure and for the period of the war, General Officers Commanding Divisions are empowered to sanction an increase in the rates of detention allowance laid down in paragraph 97, Army Regulations, India, Volume I, in respect of officers who are unable to pay for passages for themselves or their families and are granted free passage under paragraph 65, Army Regulations, India, Volume X. The amount of the allowance should be determined by the General Officer Commanding concerned, according to the needs and circumstances of each officer, up to a maximum of Rs. 7 per diem for detention at a port of embarkation, and Rs. 5 per diem in other cases.

[58260 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 107 of 1918.

DELHI,

5th March 1918.

Issue of badges of rank and of appointment authorised for personnel of mule transport units.

Badges of rank and of appointment authorised* for personnel of mule transport units are detailed below :—

* Army Order ... 1917

Description	For wear by—
... a plain "V" in laurels,	Transport Veterinary Assistants (2nd grade).
...	Kot dafadars.
... embroidered, worsted	Quartermaster dafadars.
... embroidered, worsted.	Veterinary Assistants, 3rd and 4th grades.
... avildar's badge, with a worsted	Veterinary Dressers.
... worsted.	Saddlers.
... rsted.	Carpenters.
... worsted.	Blacksmiths.
... er and pincers crossed, worsted.	Shoeing-smiths.
... eshoe, worsted	

[178 (Q. M. G.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 198 of 1918.

DELHI,

5th March 1918.

198. Grant of detention allowance to army dental surgeons, while they are away from their headquarters station on temporary duty, in addition to fuel and lighting allowances and compensation in lieu of free quarters.

It has been decided that detention allowance, under the conditions laid down in Army Regulations, India, Volume I, paragraph 254-A, is admissible to army* dental surgeons, while they are away from their headquarters station on temporary duty, in addition to fuel and lighting allowances and compensation in lieu of free quarters.

* Army Department, No. 10805, dated the 21st July 1917.

[723 (D. M. S.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 199 of 1918.

DELHI,
5th March 1918.

199. Hire charges on account of tentage drawn from arsenals for the accommodation of officers temporarily attached to units.

It has been decided that when tents are drawn and retained in regimental charge for the use of officers, owing to the deficiency of bungalow accommodation, hire shall be payable for the period of actual occupation only. It should be understood that undue delay must not occur in returning tents to arsenal charge when it is clear that their continued retention is unnecessary.

[37514 (Q. M. G.).
E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY-DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 200 of 1918.

DELHI,

5th March 1918.

)0. Pay of enemy officer prisoners of war.

Army Council Instruction No. 1745 of 1917 (reproduced below) republished for the information and guidance of all concerned in ntinuation of Army Department letter No. 16396, dated the 31st ctober 1917.

[1823 (A. G.-7). / C.].

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

Army Council Instruction, No. [illegible], dated the [illegible] Nov., 1917.

With reference to paragraph 3 of A. C. I. [illegible] of 1917, it is not admissible to an officer prisoner of war who escapes for period during which he is at large, including the day on which he escapes, but that the re-captured pay may be resumed as from date of capture inclusive.

[illegible] (F. 2).

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 201 of 1918.

DELHI,

5th March 1918.

1. Formation of 10 additional squadrons of Indian Cavalry.

...t Duke of York's Own ...cers (Skinner's Horse).
...th Cavalry.
...th Hariana Lancers
...th Cavalry
...th Cavalry.
...th King George's Own ...t Cavalry.
...th Light Cavalry.
...rd Queen Victoria's ... Light Cavalry.
...th Scinde Horse.
...th King George's ...n Central India Horse.

Sanction is accorded to the formation of a 5th, or additional squadron in each of the marginally noted Indian cavalry regiments, as a temporary war measure, with effect from 26th September 1917.

2. The establishment of these extra squadrons will be that ...an Indian cavalry squadron on peace scale, and they will be ...tled to all the allowances admissible to the latter.

3. Except in regard to British officers, the personnel for these extra squadrons will be found from within existing establishments as sanctioned by Army Department letter No. 18189, * dated 8th December 1917, to the Adjutant General in India.

* Communicated to ...ral Officers Com...ing, Armies, Divi... and Independent ...des and Controllers No. 18190, dated ...ecember 1917.

...romotions are authorised to allow each squadron its proper ...lement of Indian officers and non-commissioned officers of the ...red ranks.

4. The horses for these extra squadrons will be supplied and replaced by Government as occasion demands, and will remain the property of Government. Officers Commanding, Indian silladar regiments concerned, will credit to Government on behalf of each horse Rs. 2-8 per mensem, as is done in the case of a silladar cavalry regiment on field service, *vide* paragraph 10 (*a*), Field Service Manual, Silladar Cavalry, from the date of formation of the squadrons.

Should mules at any time be issued to these squadrons, they will be supplied by and remain the property of Government; to cover the cost of replacements, Indian silladar cavalry regiments concerned would credit to Government on behalf of each mule the deduction mentioned in paragraph 10 (*b*), Field Service Manual, Silladar Cavalry.

In all other respects these additional squadrons will be maintained on the silladar system.

5. The expenditure involved is estimated at Rs. 5,52,593 initial and Rs. 2,80,450 recurring. It should be adjusted in the same way as charges of units serving in India.

[55096 (A. G.) / E.]

A. H. BINGLEY, *Major General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 202 of 1918.

DELHI,
6th March 1918.

2. Adjustment of the pay of British Service officers transferred to Indian payment.

The Right Hon'ble the Secretary of State for India has [i]timated that an increase of pay has recently been sanctioned for [o]ficers of the British Service in receipt of British rates of pay, [a]nd that in the case of officers transferred to Indian payment [w]hen the last-pay certificates show the old rates Agents will [a]djust the pay up to the date before embarkation, and Controllers [o]f Military Accounts thereafter. The increased rates of pay will [b]e notified in Army Orders in due course.

[01746 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 203 of 1918.

DELHI,

5th March 1918.

!03. Instruction of British and Indian rank and file at local classes in the Hotchkiss Gun.

With reference to Army Department letter No. 17541, dated 6th November 1917 (printed as an appendix to this Instruction) sanction is accorded, as a war measure, to the extension of he provisions contained therein, with effect from 1st June 1917, o local classes for instruction in the Hotchkiss Gun.

2. The extra expenditure involved will be met from the grant nd head of account affected or by reappropriation.

[17883 (G. S.). / E.]

A. H. BINGLEY, *Major-General,*

cretary to the Government of India

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 204 of 1918.

DELHI,
5th March 1918.

204. Reckoning of field service for the purpose of the grant of disability pensions.

It has been decided that field service for the purpose of the grant of disability pensions under the provisions of paragraph 1061-A, Army Regulations, India, Volume I, counts from the date of embarkation to the date of disembarkation, both days inclusive.

[37623 (Q. M. G.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 205 of 1918.

DELHI,

6th March 1918.

05. Grant of extra duty pay to chiropodists employed with reserve battalions (India).

In Army Department letter No. 16505, dated the 2nd November 1917, sanction was accorded to the conversion of the 16 combined British Infantry depôts into 8 reserve battalions (India).

Sanction has been accorded to the payment of the allowance authorised in Army Regulations, India, Volume I, paragraph 84 (xvi), to chiropodists actually employed with these reserve (India) on the scale of 2 in each reserve battalio

[01719 (A. G.-1). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of Indi

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 207 of 1918.

DELHI,
5th March 1918.

207. Staff pay of officers of the Royal Army Medical Corps commanding all classes of British field ambulances.

It has been decided that officers of the Royal Army Medical Corps commanding all classes of British field ambulances shall receive, in addition to the Indian Medical Service rate of grade pay, staff pay at the rate of Rs. 100 per mensem for each section in the ambulance. Staff pay will not, however, be admissible for the charge of a detached section.

[792 (D. M. S.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 207 of 1918.

DELHI,
8th March 1918.

207. Staff pay of officers of the Royal Army Medical Corps commanding all classes of British field ambulances.

It has been decided that officers of the Royal Army Medical C[illegible]

[illegible]

ambulance. Staff pay will not, however, be admissible [illegible] charge of a detached section.

[illegible]

A. H. BINGLEY, Major-General,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 208 of 1918.

DELHI,

5th March 1918.

8. Detention allowance to Army Service Corps officers.

It has been decided that detention allowance at Rs. 5 per diem ll be admissible to an Army Service Corps officer when deputed a station other than his own on duty in connection with his pointment. The allowance will not be admissible for any day which travelling allowance is drawn.

2. The expenditure involved is debitable to the ordinary grant d head of account affected.

[56868 (A. G). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 209 of 1918.

DELHI,

5th March 1918.

209. Amendment to the regulations governing the expenditure of the Annual Training Grant.

The following amendment is made to paragraph 10 of the memorandum attached to Army Department letter No. 4845-1 (. S., S. D.-3), dated the 28th January 1913 :—

After the words "of their allotments:" in second line of paragraph 10 of the memorandum *add* "This list is not intended to be exhaustive and when occasion arises the powers conferred on General Officers Commanding in paragraphs 7, I (*v*), Army Regulations, India, Volume III, should be exercised."

[63 (G. S.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

non-commissioned officers required for the duty in question will be detailed from the existing ranks.

3. This sanction will have effect from the 3rd December 1917.

4. The extra expenditure involved during 1917-18 will be treated as pertaining to the schedule measure "Grant of free rations to all ranks of the Indian Army, etc." From 1st April 1918, the expenditure will fall to the ordinary grant and head of accounts in the Army Estimates.

5. These orders supersede those contained in Army Department letter No. 1969,* dated 14th February 1918.

* Communicated with No. 1970, dated 14th February 1918, to General Officers Commanding, Northern and Southern command, all Divisions, and Independent Brigades, and all Controllers

[46154 (A. G.) / E]

A. H. BINGLEY, *Major-General*,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 211 of 1918.

Delhi,

6th March 1918.

211. Sub-charge allowance for sub-assistant surgeons in sub-medical charge of Royal Artillery depôts.

It has been decided that sub-assistant surgeons in sub-medical charge of Royal Artillery depôts shall receive sub-charge allowance at the following rates, in addition to any allowance that may be drawable under Army Regulations, India, Volume I, paragraph [illegible]7.

Per mensem,

Rs

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 212 of 1918.

DELHI;

5th March 1918.

12. Supply of chargers to officers of the British service serving in British Infantry units and officers of the New Army and Special Reserve.

1. [illegible] as been decided, as a temporary measure during the period [illegible] e war, that officers of the British service serving in British infantry units whose duties require them to be mounted shall be permitted to hire chargers from Remount depôts on payment of Rs. 12-8-0 per mensem, subject to the conditions laid down in Army Regulations, India, Volume II, paragraph 754 and 754-A. to D.

2. Special Reserve and New Army officers, of any branch of the service, whose duties require them to be mounted, will be given the same concessions as applicable to Territorial and Garrison battalion officers, *i.e.* when serving in their units they will be supplied with horses by the State under the [illegible] sions of Army [illegible] letters No. H.-2579* No. H.-1373†, dated [illegible]

* Communicated to General Officers Commanding, Divisions, and Controllers of Military Accounts, under the same number and date.

† Communicated to General Officers Commanding, Divisions, under Quartermaster General's No. 980-1-W. S., dated 1st March 1916.

Communicated to Controllers of Military Accounts under the same number and date.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ⁿY INSTRUCTION (INDIA).

No. 213 of 1918.

DELHI,
5th March 1918.

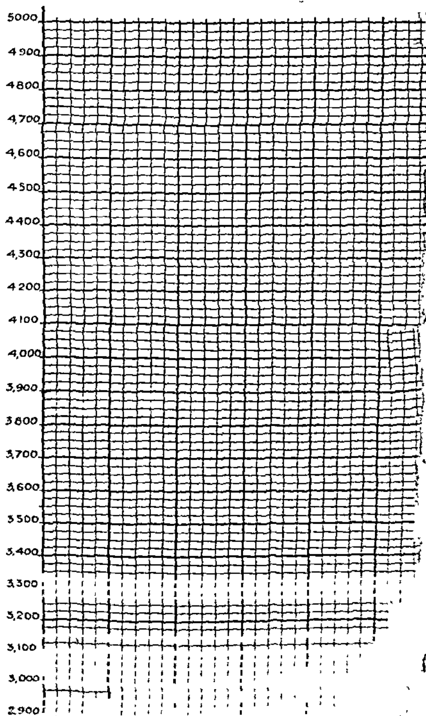
Forms for submission of claims to "1914 Star."

h reference to Army Instruction, India, No. 137 of 1918, re now obtainable from the Secretary to the Government a, Army Department, Medal Section, Simla, for the ion of claims to the 1914 Star.

instructions for completing the forms, which are given on erse thereof, should be strictly complied with in order that when submitted may be considered without delay.

[14521 (A. D.). / Medals.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.


5000
4900
4800
4,700
4,600
4500
4400
4,300
4200
4100
4,000
3,900
3800
3,700
3,600
3500
3,400
3,300
3,200
3,100
3,000
2,900

(3)—Non-commissioned officer instructors.

These will be obtained from the Indian Defence Force and will consist of :—

4 Sergeants.

77 Corporals.

Terms of service, rates of pay, allowances, etc., will be as in Annexure "A" of Army Department letter No. 18784, dated 20th December 1917.

As it is anticipated that the required number of British instructors will not be forthcoming at once, sanction is accorded to the employment of Indian instructors until such time as the autho-rised strength of British instructors has been completed. The[illegible] selected Indian instructors will be given the acting rank of [illegible] with pay, etc., of that rank as in a Mechanical Transport C[illegible]

(4)—Pupils and followers.

The terms of service, etc., of pupils and followers will be as laid down in Army Department letter No. 18784, dated 20th December 1917.

(5)—Vehicles.

50 Ford motor cars and 5 Ford chassis.

(6)—Clothing.

Clothing will be issued to all ranks on the scales authorised in Army Department letter No. 18784, dated 20th December 1917.

3. The expenditure involved will be debited to His Majesty's Government through the Central War Controller.

[37303 (Q. M. G.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 215 of 1918.

Delhi,
5th March 1918.

215. Payment of advances and grants-in-aid to officers' and sergeants' messes of all Territorial units and Garrison battalions and of any units or formations, whether regular or temporary, which were not in existence in August 1914.

Army Department letter No. 11603 (M. W.-2), dated the 24th November 1914, as modified by that Department's letter No. 15788—1 (M. W.-1), dated the 29th August 1916, sanctioned the grant of certain [illegible] n India, and these concessions [illegible] of India to vario[illegible] the Govern-

2. It has now been decided that the concessions referred to [illegible] the following revised system [illegible] *all Territorial units and* [illegible] *units or formations, whether* [illegible] *which were not in existence in August 1914*:—

(a) Payment of initial grants and advances in cash for the purchase of equipment and furniture for mess[illegible] be made [illegible] wit[illegible] Bo[illegible] officers' messes, but sergeants' messes will receive initial grants only.

(b) The payment of the initial grants and advances mentioned in (a) above will be made only if the General Officer Commanding the Division or Independent Brigade concerned, considers that the formation of a separate mess is necessary and desirable for the unit.

General Officers Commanding may, however, arrange at their discretion for the formation of station or combined messes which will be eligible for these initial grants and advances.

(*c*) The amounts of the advances shown in the sliding scale are maxima only, and may be drawn in full, or not, at the discretion of the Officer Commanding concerned.

(*d*) The advances will be repaid in 25 equal monthly instalments, and will be deducted from the mess allowance admissible under paragraph 284, Army Regulations, India, Volume I. The maximum of Rs. 150 per mensem will not be applied until the advance has been fully recovered.

(*e*) Those units which have already received either mess equipment in kind under Army Department letter No. 11603 (M. W.-2), dated the 24th November 1914, or an allowance in lieu of mess equipment under that Department's letter No. 15788-1 (M. W.-1), dated the 29th August 1916, or a grant from the War Office for the purchase of mess equipment, will not be eligible for a further initial *grant* under these orders. They may, however, be allowed to draw the advance admissible under these orders.

(*f*) Sergeants' messes which have received furniture additional to that authorized in Table 44, Section IV, Army Tables, Miscellaneous Services, will be permitted to retain such furniture as a free gift.

(*g*) Other messes which have received furniture from the Military Works Services on hire will be given the option of taking it over at a valuation to be fixed by the Standing Barrack Committee. If not taken over, the *furniture* will be withdrawn and returned to the Military Works Services.

(*h*) Officers who have received furniture for their quarters on hire from the Military Works Services under the orders contained in the Army Department letters quoted in paragraph 1 above will be given the option of taking it over at a valuation to be fixed by the Standing Barrack Committee. If not taken over, it will be withdrawn and returned to the Military Works Services.

(*i*) If a unit leaves India, or a mess is abolished before the whole of the advance is repaid, Government will have

a lien on the mess property purchased from the grant and advance to the extent of the unpaid portion of the advance.

(j) Claims for grants and advances will be submitted by units, supported by the necessary authority, to the Divisional Disbursing Officer concerned.

(k) Units, and not the Military Works Services, will be responsible for the purchase and maintenance of furniture other than that authorised in Tables 44 and 45, Section IV, Army Tables, Miscellaneous Services, which will continue to be supplied and maintained by the Military Works Services.

3. Officers' messes which have been provided with billiard tables, etc., under the conditions laid down in Army Department letter No. H. S.-413, dated the 12th February 1915, may be permitted to retain such tables, etc., under those conditions, but no new tables, etc., will be purchased by the Military Works Services in future.

4. The expenditure involved in giving initial grants to messes under these orders should be adjusted in the same way as other charges of units, depôts, etc., in India. The advances should be treated as advances recoverable on the books of the Divisional Controllers of Military Accounts.

5. The amounts realized by the sale of the furniture referred to in clauses (g) and (h) of paragraph 2 above will be credited to the receipt head corresponding to the disbursement head against which the initial cost of purchasing the furniture in question was charged.

[3350 (M. W.-3). / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 216 of 1918.

DELHI,

5th March 1918.

6. Formation of a Reserve of Railway personno for employment overseas.

Sanction is accorded to the formation on Indian Railways o reserve of certain classes of railway personnel for employmen erseas as detailed in the annexure.

2. The expenditure involved is debitable to His Majesty overnment and should be adjusted through the Central Wa ontroller.

[117 (A. G. R.) E]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

7. Permanent promotion on a railway from one class to another (*e.g.*, from Signaller to Assistant Station Master) will render the person concerned eligible for increased reserve pay and transfer to a higher class. Acting or officiating appointments will not entitle the reservist to any enhancement of reserve pay.

8. A reservist undertakes :—

(*a*) To serve in any country he may be directed.

(*b*) To proceed to the port of embarkation within 15 days of being called up.

(*c*) To maintain himself in a state of efficiency as will enable him to undertake the duties for which he has enrolled.

(*d*) Immediately to notify to the enrolling officer any physical disability likely to militate against his immediate despatch on active service. Failure to notify such disability will render the reservist liable for the re-imbursement of reserve pay from date of disability.

(*e*) To continue in the reserve during the present war and until six months thereafter (but see paragraph 10).

(*f*) To serve overseas, after being called up, for the duration of the present war, and six months thereafter if required.

9. A reservist having once enrolled will not be called up until the expiry of one month from the date of enrolment.

10. When the services of a reservist are no longer required he may be discharged from the reserve, in which case he will be paid up to the date of receipt of the notification of discharge.

11. Payment will be made in arrears through the Chief Recruiting Officer of the Railway concerned.

12. Payment may be withheld should the reservist commit any fault which will render him liable to dismissal from railway service or during suspension, but should it be subsequently considered that the fault did not render his retention in the reserve undesirable he may be paid any sums that may have been withheld.

13. Payments to men who cease to be employed on a [illegible] but who continue to be reservists, will be made from such [illegible]

and at such times as the exigencies of the case may permit.

14. For the present the reserve will be limited to :—

	European.	Indian.
Drivers	10	30
Station Masters . .	10	30
Assistant Station Masters	10	40
Signallers . . .	...	45

15. The reserve will be kept up to strength by the admission of new reservists in the place of the reservists who are called up, for which purpose a waiting list will be maintained.

16. The reservists will be called up in the order of their length of service in the reserve.

17. The Chief Recruiting Officers should submit applications from men who wish to join the reserve to the Superintendent of Recruitment who will intimate whether they have been accepted or not.

18. In order that the reserve may be effective, it will be necessary for the Railway District Officer concerned to see that he has sufficient railway staff to permit of the immediate relief of the reservist when called up.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 217 of 1918.

DELHI,

5th March 1918.

217. Pistol, Musketry and Machine Gun courses to be fired annually by the personnel of Machine Gun Companies.

The following courses will be fired annually by the personnel of Machine Gun Companies :—

PISTOL COURSE.

Officers.—That defined for British officers in Musketry Regulations, Indian Supplement, Chapter I, paragraph 472-A.

Other Ranks.—(Armed with the pistol, *i.e.*, one Indian officer) The course defined in the same paragraph but for "other ranks, Royal Artillery and Infantry."

ANNUAL MUSKETRY COURSE.

All British Ranks.—To be exercised in Table B, Appendix II, Musketry Regulations, Part I, 1909 (Reprint 1914).

MACHINE GUN COURSE.

All ranks, with the following exceptions, will execute the course laid down in Table 'C,' Musketry Regulations, Part I, 1909 (Reprint 1914) :—

British Officers Company Serjeant Major Company Quartermaster Serjeant	Will fire Part I and practices 7, 8, 9, 10, 11 and 12 of Part II.

2. The following allowances are authorized :—

(i) An allowance of annas 4 per annum for each individual who completes the annual course under the terms of paragraph 252, Army Regulations, India, Volume I

(*ii*) An additional allowance of annas 4 per man per annum for each individual who completes the annual Machine Gun course.

(*iii*) An allowance of Rs. 4 per mensem for each Machine Gun Company for the upkeep and maintenance of butts and targets, under the terms of paragraph 246, Army Regulations, India, Volume I.

3. The foregoing orders will apply to the four permanent Machine Gun Companies at present in India and to the seven Machine Gun Companies formed for service overseas.

4. An initial grant will be made to each of the four permanent Machine Gun Companies in India to enable them to make up their targets. A statement of stores required for this purpose, with the approximate cost, is attached (*vide* Appendix D).

5. The approximate cost, which is estimated at Rs. 94,902 initial, and Rs. 33,896 recurring (*vide* Appendices A to E), will be debited to the ordinary grant and head of account affected in the Army estimates.

6. Appendices A, B, C, D and E are attached as annexures to this Instruction.

[17539 (G. S.) / E.]

A. H. BINGLEY, *Major-General*,

Secretary to the Government of India.

APPENDIX "A."

Statement of Ammunition required per Machine Gun Company.

		Total rounds
Pistol, Ball—		
Officers 10 × 72 rounds	720	
Indian officer 1 × 24 rounds	24	
		744
Pistol, Blank—		
(For training shy mules to stand fire)		200
·303" Blank S. A A—		
All ranks armed with the rifle 103 × 100 rounds		10,300
·303 Ball S A. A.—		
Annual rifle course.		
Trained soldiers' course 146 × 40 rounds .	5,840	
Machine gun course.		
Part I—		
Headquarters, 26 × 170 rounds . .	4,420	
Four sections—		
30 × 4 × 170 rounds	20,400	
17 men (extra peace establishment) at 170 rounds	2,890	
Part II—		
Headquarters—		
22 (rank-and-file) × 550 rounds . .	12,100	
4 (officers, S. M. and Q. M. S.) × 350 rounds	1,400	
Four sections—		
4 × 28 (rank-and-file) × 550 rounds .	61,600	
4 × 2 (officers) × 350 rounds . . .	2,800	
17 men (extra peace establishment) × 550 rounds	9,350	
Per section for additional practices—		
4 sections at 6,500 rounds per section .	26,000	
Commanding officer for experimental purposes	12,000	
Extra training, etc—		
Brigadier for Brigade training . .	32,000	
		190,500
·220 R. F. Ammunition—		
Per trained soldier—		
146 × 33 rounds		4,818

APPENDIX "B."

STATEMENT OF COST OF AMMUNITION PER MACHINE GUN COMPANY.

	Initial			Recurring		
	Rs	A.	P	Rs.	A.	P.
Pistol, Ball, Webley, Mark II, 744 rounds at Rs 33 per 1,000	24	8	10	24	8	10
Pistol, Blank, Webley, Mark II, 200 rounds at Rs 45 per 1,000	9	0	0	9	0	0
·303" Blank, S A. A. 10,300 rounds at Rs 25 per 1,000	257	8	0	257	8	0
·303" Ball, S A. A. 190,800 rounds at Rs 42 per 1,000	8,013	9	7	8,013	9	7
·22 R. F. Ammunition 4,818 rounds at Rs. 10 per 1,000	48	2	10	48	2	10
TOTAL	8,352	13	3	8,352	13	3

APPENDIX "C."

STATEMENT OF THE ALLOWANCES ANNUALLY FOR THE PERSONNEL OF EACH MACHINE GUN COMPANY.

	Rs	A	P
Annual allowance under the terms of paragraph 246, Army Regulations, India, Volume I, Rs 4 × 12	48	0	0
Annual allowance under the terms of paragraph 252, Army Regulations, India, Volume I, 146 × 4 annas × 2	73	0	0
	121	0	0

APPENDIX "D."

STATEMENT OF STORES, WITH APPROXIMATE COST, REQUIRED BY EACH OF 4 PERMANENT MACHINE GUN COMPANIES TO MAKE UP THEIR TARGETS.

	Rs.	A.	P.
6 instructional targets for Part I at Rs. 7-8-0 each	45	0	0
6 10′ screens for Part II at Rs. 2-8-0 each	15	0	0
6 30′ screens for Part II at Rs. 7-0-0 each	42	0	0
64 falling plates for Part II at Rs. 5-0-0 each	320	0	0
TOTAL	422	0	0

APPENDIX "E."

STATEMENT OF TOTAL COST OF THE SCHEME

Initial.

	Rs.
(a) Cost of ammunition and allowances for 11 machine gun companies at Rs. 8,474 per company (Appendices B and C)	[illegible]
(b) Cost of stores required for the 4 permanent machine gun companies at Rs. 423 per company (Appendix D.)	[illegible]
	[illegible]

Recurring.

	Rs.
Cost of ammunition and allowances for the 4 permanent machine gun companies at Rs. 8,474 per company (Appendices B and C)	[illegible]

S.G.P.I., Delhi—No. 11 I.A.I.—2-3-15—1925.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 219 of 1918.

DELHI,

12th March 1918.

219. Summoning of cantonment magistrates to Headquarters by Divisional and Brigade Commanders.

It has been decided that, when a divisional or brigade commander considers it necessary to summon a cantonment magistrate to divisional or brigade headquarters for consultation in matters relating to cantonment administration, the move may be sanctioned by the General Officer Commanding the Division or Brigade, with the [illegible] [illegible] Local Government, under whom [illegible]

[31101 (Q. M. G.). / 6.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 220 of 1918.

Delhi,
15th March 1918.

220. Maintenance of clothing stocks at transport recruiting depôts.

The provisions of India Army Order No. 1192 of 1917 are extended to transport* recruiting depôts which may accordingly hold 3 months' requirements of such authorised articles of clothing and necessaries as may be deemed advisable by the Officer Commanding.

* Army Department No. 1090, dated 24th January 1917, and No. 7002, dated 12th May 1917.

[7C2 (Q.M.G.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 221 of 1918.

DELHI,
12th March 1918.

221. Increase in the establishment of British officers, Indian officers, and Indian non-commissioned officers in depôts of (free) Labour and Porter Corps.

It has been decided that the establishment of British officers, Indian officers and Indian non-commissioned officers for (free) Labour and Porter Corps Depôts shall be as detailed below :—

Depôt for a single corps.

1 Commandant (Captain) .	Pay of rank, *plus* Rs. 250 per mensem staff pay.
1 Adjutant (Lieutenant) .	Pay of rank, *plus* Rs. 150 per mensem staff pay.
1 Quartermaster (Indian officer)	Pay of rank under Army Instruction (India) No 119, dated 12th February 1918, *plus* Rs 17-8-0 per mensem staff pay and pension if a pensioner.
2 Indian officers (pensioners).	Pay of rank under Army Instruction (India) No. 119, dated 12th February 1918, *plus* pension.
8 Havildars . . .	Pensioners or men promoted from Corps. Pay under Army Instruction (India) No. 119, dated 12th February 1918. Pensioners will draw pension in addition to pay.
16 Naicks	

Combined depôt for two corps.

1 Commandant (Captain) .	Pay of rank, *plus* Rs. 250 per mensem staff pay.
1 Adjutant (Lieutenant) .	Pay of rank, *plus* Rs. 150 per mensem staff pay.
1 Quartermaster (Lieutenant)	Pay of rank, *plus* Rs. 150 per mensem staff pay.
4 Indian officers (pensioners)	Pay of rank under Army Instruction (India) No. 119, dated 12th February 1918.
12 Havildars . . .	Pensioners or men promoted from Corps. Pay under Army Instruction (India) No. 119, dated 12th February 1918. Pensioners will draw pension in addition to pay.
24 Naicks	

2. Combined depôts dealing with more than two corps will, necessary, be dealt with specially.

3. The above establishments do not apply to Depôts of Labou Companies.

[02296 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of Indi

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 222 of 1918.

DELHI,

12th March 1918.

222. Entertainment of barbers for service in hospitals and Base depôts overseas.

The following additions are made to Army Instruction (India) No. 64 of 1918 :—

In paragraph 1 (3) before the entry "Labourers, Porters, Coolies, etc." insert the following :—

"Barbers engaged for hospitals and Base Depôts overseas."	"Will receive Rs. 10 in India and Rs. 15 out of India."

In paragraph 1 (4) before "Labourers" insert "Barbers."

2. In order to cover the case of barbers who have been entertained at Followers' C[illegible] their status as public followers [illegible] from the 20th September 1916, [illegible] conditions of service as regard [illegible]

[40991 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 223 of 1918.

DELHI,
12th March 1918.

3. Field service concessions to troops and followers serving beyond Nushki with the Seistan Field Force.

Field service concessions are not admissible to troops and lowers whose employment has no connection with the operations Seistan, although they may be serving in the area defined in my Department letter No. H-822, dated the 1st February 1916, the limits within which these concessions shall be allowed.

[243 (Q. M. G.-7). / O.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 225 of 1918.

DELHI,

12th March 1918.

225. Formation of a fifth or additional squadron in the 3rd and 37th Lancers.

Sanction is accorded to the formation of a fifth or additional squadron in each of the marginally noted Indian cavalry regiments with effect from the 20th October 1917.

3rd Skinner's Horse.
37th Lancers (Baluch Horse).

2. The establishment of these additional squadrons will be that of an Indian cavalry squadron on peace scale, and they will be entitled to all the allowances admissible to the latter.

3. Except in regard to British officers the personnel for these extra squadrons will be found from within existing establishments as sanctioned by Army Department letter No. 18159, dated 8th December 1917.

* Communicated to General Officers Commanding, Divisions and Independent Brigades, to Controllers of Military Accounts with Army Department endorsement No. 18100, dated 8th December 1917.

4. Promotions are authorised to allow each squa[illegible] complement of Indian officers and non-commissioned [illegible] required ranks.

5. The horses for these extra squadrons will be [illegible] replaced by Government as occasion demands and will [illegible] property of Government. Officers commanding conce[illegible] credit to Government, on behalf of each horse, Rs. [illegible] mensem, as is done in the case of silladar cavalry regimen[illegible] field service, *vide* paragraph 10 (*a*), Field Service Manual, Silladar Cavalry, from the date of formation of the squadrons.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 228 of 1918.

DELHI,

12th March 1918.

228. **Employment of additional officers in the Inspection Section of the Ordnance Department.**

Sanction is accorded to the employment in the Inspection ection of the Ordnance Department of 10 additional officers of the dian Army Reserve or Garrison Battalions, on pay of rank *plus* . 250 staff pay per mensem, as a temporary measure, for the riod of the war.

2. The expenditure involved should be debited to the ordinary ant and head of account affected in the Army estimates. The ntral War Controller will make any necessary readjustment between His Majesty's and the Indian Governments.

[99 (D.G.O.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 229 of 1918.

DELHI,

12th March 1918.

229. Increase in educational establishments of Gurkha units and depots.

With a view to affording greater facilities for the instruction of Gurkha recruits in Urdu, it has been decided that, for the period of the war, each Gurkha unit and depôt shall be authorised, at the discretion of Brigade Commanders, to engage one extra vernacular teacher for every 100 pupils over 200, in addition to the establishment already authorised.

The extra expenditure involved should be adjusted in the same manner as the pay charges of units and depôts in India.

[0788 (A. G.). / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 230 of 1918.

DELHI,

12th March 1918.

230. Replacement of necessaries in possession of boys.

It has been decided that, during the war, an Officer Commanding may condemn and replace free in kind such of the articles of necessaries in possession of boys of British units, specified in the appendix to this Instruction as have, in his opinion, [illegible] nd tear. In the case of [illegible] annas respectively will be

The above decision is applicable only to boys not in receipt of quarterly clothing allowance or the separate issue of two annas a day kit allowance.

2. The expenditure will be debitable to the ordinary grant and head of account affected in the Army estimates.

[36312 (Q. M. G.) / D.]

A. H. BINGLEY, *Ma*[illegible]*al,*

Secretary to the G[illegible]

APPENDIX TO ARMY INSTRUCTION (INDIA) No. 23 OF 1918.

Statement showing the articles of necessaries in possession of boy which may be condemned and replaced by Officers Commanding.

Bag, stable (Cavalry and mounted men of Artillery).
Blacking, tin (except Mountain Artillery).
Braces.
Brush, blacking (except Mountain Artillery).
„ brass (except Rifles).
„ clothes.
„ hair.
„ hard (Artillery and Royal Engineers only).
„ polishing (except Mountain Artillery).
„ shaving.
„ tooth.
Comb, hair.
Garters and rosettes } Highland regiments, but onl
Hosetops } pipers of H. L. I.
Housewives.
Laces, boot.
Dubbing.
Rubber, Horse (Cavalry and mounted men of Artillery).
Shirts, flannel.
Socks, worsted.
Towels.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 231 of 1918.

DELHI,

12th March 1918.

1. Provision of web equipment for Headquarters and field companies of Sapper and Miner units in India.

Sanction is accorded to the re-equipment of all headquarters and l companies of sapper and miner units in India. with the 1908 :ern web equipment.

The expenditure involved, so far as the units left in India of pre-war authorised establishment are concerned, is estimated Rs. 27,878 initial and Rs. 1,190 annual recurring, and is ıitable to the ordinary grant and head of account affected in the ny estimates.

[7519 (D. G. O.) / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 232 of 1918.

DELHI,
12th March 1918.

Scale of furniture for transport veterinary hospitals and central transport pharmacies.

'he following articles of furniture are authorised for each port veterinary hospital and each central transport nacy :—

Articles.	Number.	Source of supply.
Almirah, large	1	M. W. S.
" small	1	M. W. S.
Tables, 5' × 2' 10".	3	M. W. S.
Fittings, enamelware, for washhand stands (set).	1	S. & T. Corps.
Jug, enamel iron, 3 pints	1	S. & T. Corps.
Kettle, tin, 6 pints	1	S. & T. Corps.

. The expenditure involved, based on the number of transport rinary hospitals and transport pharmacies now maintained, [illegible] initial and Rs. 2,409 recurring annually. the current financial year :t either from the sanctioned ected or by reappropriation.

[35367 (Q.M.G.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 233 of 1918.

DELHI,

12th March 1918.

233. Grant of a bonus to recruits enlisted into the Indian Ordnance Department.

Sanction is accorded to the grant, as a temporary measure for the period of the war, of a bonus of Rs. 50 to each lascar enlisted into the Indian Ordnance Department. The amount will be paid as follows :—

Rs 10 on enrolment and Rs. 40 as soon as the lascar has been passed fit by a Medical Officer after joining an Arsenal or Depôt.

This sanction will cover any cases in which the bonus has already been paid in good faith, under the provisions of India Army Order No. 668 of 1917, in consequence of the grant of combatant status to lascars, *vide* Army Department letter* No. 13063, dated the 31st August 1917, addressed to the Director General of Ordnance in India.

* Communicated with Army Department endorsement No 13064, dated the 31st August 1917, to Heads of Branches of Army Head-quarters and to Controllers of Military Accounts.

[58043 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 234 of 1918.

DELHI,

12th March 1918.

234. Issue of two additional "Spanners, H. B., No. 147," to 4·5" Q. F. Howitzer batteries.

Sanction is accorded to the issue of two additional "Spanners, hydraulic buffer, No. 147" for each 4·5" Q. F. Howitzer battery and to the provision of two staples and securing strap for the carriage of the spanners on the inside of the trail of all carriages.

2. The extra expenditure involved which is estimated at Rs. 180 initial, and Rs. 31 annual recurring, is debitable to the ordinary grant and head of account affected in the Army estimates.

[8617 (D. G. O.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 235 of 1918.

DELHI,
12th March 1918.

5. Slop-pail for Nusseerabad pattern cookhouses.

It has been decided to cancel standard plan No 20-B. F., for [slo]p-pail for Nusseerabad pattern cookhouses. All existing copies [of] this plan should be destroyed.

[4604 (M. W.-3). / C.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 235 of 1918.

DELHI,

12th March 1918.

235. Slop-pail for Nusseerabad pattern cookhouses.

It has been decided to cancel standard plan No 20-B. F., for slop-pail for Nusseerabad pattern cookhouses. All existing copies of this plan should be destroyed.

[4664 (M. W.-3). / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

Y INSTRUCTION (INDIA).

No. 237 of 1918.

DELHI,

12th March 1918.

gation to the Brigade, Divisional and my Commanders of the power to sanc-n excesses over sanctioned plinth area imates for temporary buildings in cer-n cases.

-ence to paragraphs 288 (*g*) and (*i*), Army Regula- Volume III, it has been decided that, in the case of commodation required in connection with the war, manders may approve of any alterations or addi- led in the plinth area estimate for a work sanctioned ority if the following conditions are fulfilled :—

counts of the project are not closed.

al actual cost of the work, including that of the tions or alterations, is not more than the amount of anctioned estimate *plus* five per cent. on the same.

itions or alterations are fairly contingent on the sals contemplated in the sanctioned project, are ly reasonable, and have not previously been dis- ed by higher authority.

l cost, including that alterations or addi- sanctioned estimate b than 5 per cent., but 10 per cent, applica sanction to th ro- mitted to the Di Army Co ler have power to sa h ex if tal wer of cti vid- in cla In within sui graph shou ral,

5. The horses for these extra squadrons will be supplied and replaced by Government as occasion demands and will remain the property of Government. Officers Commanding concerned will credit to Government on behalf of each horse, Rs. 2-8-0 per mensem, as in the case of silladar cavalry regiments on field service, *vide* paragraph 10 (*a*), Field Service Manual, Indian Silladar Cavalry, from the date of formation of the squadrons.

Should mules at any time be issued to these squadrons they will be supplied by and remain the property of Government; to cover the cost of replacements, Officers Commanding concerned would credit to Government on behalf of each mule the deduction mentioned in paragraph 10 (*b*), Field Service Manual, Indian Silladar Cavalry.

6. In all other respects these additional squadrons will be maintained on the silladar system and, in the case of these squadrons of regiments not in possession of regimental mules and grasscutters, whilst in India, deductions will be credited to Government for ½ payment of a grasscutter and upkeep of ½ a mule as laid down in Army Department letter No. H.-2239,* dated the 25th March 1916.

* Communicated to Controllers, with same number and date.

7. The expenditure involved is estimated at Rs. 6,74,300 initial and Rs. 9,56,000 annual recurring. It should be adjusted in the same way as charges of units serving in India.

[114 (A. G.) / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 237 of 1918.

DELHI,
12th March 1918.

237. Delegation to the Brigade, Divisional and Army Commanders of the power to sanction excesses over sanctioned plinth area estimates for temporary buildings in certain cases.

With reference to paragraphs 288 (*g*) and (*i*), Army Regulations, India, Volume III, it has been decided that, in the case of temporary accommodation required in connection with the war, Brigade Commanders may approve of any alterations or additions not included in the plinth area estimate for a work sanctioned by higher authority if the following conditions are fulfilled :—

(*a*) The accounts of the project are not closed.

(*b*) The total actual cost of the work, including that of the additions or alterations, is not more than the amount of the sanctioned estimate *plus* five per cent. on the same.

(*c*) The additions or alterations are fairly contingent on the proposals contemplated in the sanctioned project, are clearly reasonable, and have not previously been disallowed by higher authority.

2. If the total cost, including that of the alterations or additions, exceeds the sanctioned estimate by more than 5 per cent., but not by more than 10 per cent., application for sanction to the pr[illegible] posals should be submitted to the Divisional or Army Commander concerned, who shall have power to sanction such excess if the [illegible] cost is within his power of sanctioning estimates, and pr[illegible] ed that the conditions in clauses (*a*) and (*c*) above are fulfilled. [illegible] all other cases falling within the limits specified in this pa[illegible] application for sanction should be made to the Director [illegible] Military Works.

3. In cases where the excess over the plinth area ... over 10 per cent., a revised estimate must be submitted to authority who sanctioned the project, and the additions alterations must not be put in hand until permission has b obtained, which can be applied for by telegram if necessary.

[4705 (M. W.-5). / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of I

GOVERNMENT OF INDIA.

ARMY. DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 238 of 1918.

DELHI,

12th March 1918.

8. Provision of tubing, gaspipe, lead, in advance for sanitary sections and of Calx Chlorinata for these sections only when mobilisation is ordered.

It has been decided—

(i) that tubing, gaspipe, lead, shall be provided in advances for all sanitary sections in order to avoid delay in its supply on mobilisation; and

(ii) that Calx Chlorinata shall be obtained for all sanitary sections only when mobilisation is ordered on account of its liability to rapid deterioration.

2. Mobilisation Store Tables for a Sanitary Section will be ended accordingly.

[18793 (D. M. S.). / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

3. In cases where the excess over the plinth area ... over 10 per cent., a revised estimate must be submitted to authority who sanctioned the project, and the additions alterations must not be put in hand until permission has b obtained, which can be applied for by telegram if necessary.

[4705 (M. W.-5). / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of I

GOVERNMENT OF INDIA.

ARMY. DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 238 of 1918.

DELHI,
12th March 1918.

238. Provision of tubing, gaspipe, lead, in advance for sanitary sections and of Calx Chlorinata for these sections only when mobilisation is ordered.

It has been decided—

(*i*) that tubing, gaspipe, lead, shall be provided in advance for all sanitary sections in order to avoid delay in it supply on mobilisation; and

(*ii*) that Calx Chlorinata shall be obtained for all sanitary sections only when mobilisation is ordered on account of its liability to rapid deterioration.

2. Mobilisation Store Tables for a Sanitary Section will be amended accordingly.

[18793 (D. M. S.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 239 of 1918.

DELHI,
12th March 1918.

239. Khaki drill caps for Indian Defence Force.

A pattern of cap forage (Indian pattern), made of khaki drill, has been approved for issue, during the war, to the rank and file of units of the Indian Defence Force (except kilted men). The new pattern cap will be taken into wear gradually as renewals of forage caps now in possession become necessary.

[$\frac{\text{720 (Q. M. G.)}}{\text{D.}}$]

A. H. BINGLEY, *Major General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 240 of 1918.

DELHI,

12th March 1918

[2]40. Pay of unemployed, retired or pensioned officers on re-employment.

It has been decided to employ in staff or administrative appoint[m]ents in India, certain unemployed, retired or pensioned British [Se]rvice and Indian Army officers. Unemployed officers who are [r]e-employed in recognised staff or other appointments commensurate [w]ith the rank held will receive the recognised pay and staff pay of [s]uch appointments. Unemployed officers for whom suitable employ[m]ent cannot be found and who are posted to fill minor appointments, [w]ill receive unemployed pay or pension, *plus* staff pay at Rs. 500 per [m]ensem. These rates will also be admissible to retired or pensioned [o]fficers. In all cases the rate of pay to be granted to re-employed [o]fficers will be notified when posting orders are issued.

[01620 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDI

No. 241 of 1918.

DELHI,

12th March 1918.

241. Grant of compensation for mosquito curtains or nets purchased by Indian units.

It has been decided that, in cases where Indian units in stations where malaria is rife are certified by their Commanding Officers to be in possession of mosquito curtains or nets which were purchased regimentally on the advice of the Deputy Director or Assistant Director of Medical Services, prior to the issue of Army Department letter No. 19108-2 (D. M. S.-5),* dated 24th October 1917, the value of these curtains or nets will be assessed by a Station Board, and compensation granted to the unit at a rate not exceeding Rs. 4-8-0 and Rs. 2-8-0 for each serviceable rectangular shaped mosquito curtain and tent-shaped mosquito net respectively.

* Communicated to General Officers Commanding, Divisions and Independent Brigades, under *Director, Medical Services'* letter No. 19108-5 (D. M. S.-5), dated 31st October 1917.

[37107 (Q. M. G.). / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 242 of 1918.

DELHI,
12th March 1918.

242. Messing establishments of depôts of Indian units on field service.

It has been decided that the number of langris (cooks) allowed for the messing establishments of depôts of Indian units on field service shall be one for every 25 men of the number present.

2. These followers will be engaged under the terms of Army Department letter* No. H.-9546, dated the 3rd December 1915.

* Communicated to General Officers Commanding, Divisions, and Independent Brigades, and Controllers of Military Accounts under the same number and date.

3. The expenditure involved is debitable to His Majesty's Government through the Controller of War Accounts.

[01457 (A. G.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 243 of 1918.

DELHI,

12th March 1918.

43. Rewards admissible for the apprehension of deserters and absentees without leave.

The rates of rewards payable for the apprehension of deserters nd men absent without leave are as sanctioned in India Army rder No. 363 of 1915. The reward in the case of non-combatants not confined to the classes mentioned in paragraph 1014, Army egulations, India, Volume I, but is admissible in respect of *all* llowers.

Paragraph 1014, Army Regulations, India, Volume I, was constructed by India Army Order No. 1118 of 1917, the scope f the regulation previously in force being extended. It is owever, clearly stated in clause 3 of India Army Order No. 1118 1917 that the provisions of India Army Order No. 363 of 1915 e still in force.

[01165 (A. G.-9). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF IN[illegible]

ARMY DEPART[illegible]NT.

ARMY INSTRUCTION [illegible] (INDIA).

No. 243 of 1918.

DELHI,

12th March 1918.

243. Rewards admissible for the [illegible] of deserters and absent[illegible]

The rates of rewards payable for the a[illegible] and men absent without leave are as sanct[illegible] Order No. 363 of 1916. The reward in th[illegible] is not confined to the classes mentioned in [illegible] Regulations, India, Volume I, but is ad[illegible] followers.

Paragraph 1014, Army Regulations, I[illegible] reconstructed by India Army Order No. 11[illegible] of the regulation previously in force b[illegible] however, clearly stated in clause 3 of India A[illegible] of 1917 that the provisions of India Army O[illegible] be still in force.

A. H. BINGLEY, [illegible]

Secretary to the [illegible]

[illegible]sion of accommo- [illegible] to India from [illegible] overseas expedi- [illegible]her than leave on [illegible] the hot weather

[illegible]s sanctioned in Army [illegible]h May 1917, which [illegible] commodation of officer[illegible] other overseas exped[illegible] on medical certificat[illegible] hold good for the 191[illegible] ion for nursing siste[illegible] essary. The financi[illegible] nt of India under the [illegible] d in paragraph 4 of t[illegible] shall cease absolutely. [illegible] to local committees ha[illegible] 1918 on the same li[illegible]

of the scheme, a perm[illegible] rmed at Bombay whi[illegible]

nducting officers who [illegible]

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 214 of 1918.

DELHI,
12th March 1918.

**44. Arrangem[illegible]ommo-
dation f[illegible] from
Mesopot[illegible]xpedi-
tionary [illegible]ave on
medical [illegible]weather
of 1918.**

[illegible] in Army [illegible] which is [illegible] officers [illegible] as expedi-
tionary forces on leave (other than leave on medical certificate) during the hot weather of 1917, shall hold good for the 1918, season with the addition that accommodation for nursing sisters will also be provided this year when necessary. The financial responsibility assumed by the Government of India under these arrangements will be to the extent indicated in paragraph 4 of [illegible] Army Department letter [illegible] operate after the 31st Oc[illegible] been instructed to make [illegible] on the same lines as in 1917.

2. In order to facilitate the working of the scheme, a permanent Reception Committee is being formed at Bombay which will consist of:—

(a) *President*—One of the senior conducting officers who can be spared during the leave season, owing to many regular officers travelling on every transport and being available for command.

(b) *Members*—(1) Two officers with a staff pay of Rs. 250 per mensem each, for the period during which they are actually

employed in connection with this duty. (2) Also as many voluntary members as may be necessary and procurable.

(c) *Office establishment*—Two soldier clerks on regimental pay *plus* extra-duty pay at Rs. 30 per mensem each.

3. The expenditure involved by the aforesaid arrangements is debitable to His Majesty's Government and should be passed to the Controller of War Accounts for adjustment.

[37526 (Q. M. G.-1). / O.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

APPENDIX TO ARMY INSTRUCTION No. 244 OF 1918.

(Army Department letter No. 6854, dated the 10th May 1917.)

The Government of India have had under their consideration the question of the arrangements to be made for the accommodation of officers coming to India from Mesopotamia and other overseas expeditionary forces on leave (other than leave on medical certificate) during the hot weather of 1917. The number of officers who will obtain such leave is expected to be considerable and it is anticipated that they will encounter serious difficulties if left to make arrangements for their accommodation privately; while it is also considered necessary in the interest of efficiency that steps should be taken to ensure that their leave will be spent in healthy surroundings.

2. The Government of India have accordingly agreed to the appointment of local committees at various stations in India for the purpose of making suitable arrangements on behalf of the officers in question. These committees will be informed by the military authorities of the number of officers for whom accommodation is likely to be required, and it will then be the duty of the committees to secure suitable accommodation and to make suitable messing arrangements for these officers at the most favourable rates which can be obtained. In particular the committees have been authorised at their discretion to reserve rooms in hotels or to hire and equip bungalows.

3. The primary intention is that the officers in question will be charged rates for board and lodging which will fully recoup the expenditure incurred by the committees, provided that the accommodation reserved is fully utilised. The Government of India have however decided that, in the event of accommodation provided by the local committees under instructions from the military authorities not being fully taken up, the responsibility for any financial loss so accruing shall be assumed by Government. The manner in which this Government guarantee is intended to operate is indicated in the illustrations given in the following paragraphs.

4. *Hiring of bungalows—(a) Lodging.*—In the case of a bungalow, capable of accommodating 10 officers, the rent of which is Rs. 250 a month, and the other fixed charges, such as wages of establishment, Rs. 100 a month, total Rs. 350, each officer living in the bungalow will be required to pay, as his share of the [illegible] at the rate of Rs. 35 per mensem for each day of occupation; this charge shall not be increased by reason of there being le[illegible]

10 officers in occupation for the whole or any part of the month. The difference, if any, between the total aggregate amount recovered from the officers occupying the bungalow, on account of the charges mentioned in this paragraph, and Rs. 350 will be borne by Government. Similarly, in the event of a local committee finding it necessary to rent a bungalow for a total period of 6 months, while the bungalow is actually occupied for 4 months only, Government will undertake to pay the whole rent for the 2 months during which the bungalow remains empty.

(b) *Messing.*—The local committees will arrange for the messing of the officers occupying the bungalow at the most economical rates obtainable. It may be assumed, for example, that in the case of a bungalow capable of accommodating 10 officers, messing can be arranged for at the rate of Rs. 4 per officer per diem. In such a case, each officer occupying the bungalow will be required to pay for messing at the rate of Rs. 4 per diem for each day of occupation; and this charge also shall not be liable to any increase on the ground that less than 10 officers have been in occupation for the whole or any part of the month. The difference, if any, between the amount recoverable from officers on account of messing charges and the expenditure actually incurred by the local committee on account of messing will be borne by Government. The committees will of course be expected to keep this loss at a minimum by making suitable arrangements with contractors, etc.

[illegible] hotels shall be required to [illegible], for the actual period [illegible] such accommodation, including board, has been engaged by the local committee. If a local committee has reserved a given number of rooms in a hotel and certain of these rooms are not continuously filled by officers on leave, and are not otherwise utilised by the hotel proprietor, the amount actually charged to the local committee by the hotel proprietor on account of such vacant rooms shall be borne by Government. The local committees will of course endeavour to minimise such expenditure as far as possible by surrendering rooms as soon as it is found that they are not likely to be required.

5. The financial guarantee indicated in the preceding paragraph will cease absolutely to operate after the 31st October 1917, and local committees have been instructed that accommodation should, so far as possible, not be taken up for any period extending beyond the 31st of August 1917, nor in any case for more than six months.

6. The local committees are being instructed to submit bills in respect of any charges for which Government are liable under the

arrangements described in this letter to the Divisional Disbursing Officer of the Division or Divisional Area concerned in India Army Form A.-115. These bills should give full information regarding the nature of the charges and should be supported by a certificate to the effect that the charges billed for have been necessarily and correctly incurred. The bills, when received, should be paid with the least possible delay, for the reasons that the committees, will have no cash in hand with which to meet immediate demands, and that the bills will represent sums owed to land-lords, tradesmen, servants, etc., who cannot be kept waiting for their money.

7. The expenditure involved by the foregoing scheme is debitable to His Majesty's Government and should be passed to the Controller of War Accounts for adjustment.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA).

No. 245 of 1918.

DELHI,

12th March 1918.

Formation of a combined British Infantry depôt for British details from the 1st (Peshawar) Division.

Sanction is accorded to the formation of a combined British Infantry depôt at Ghora Dhaka and Khanspur, for the accommodation of British details from the 1st (Peshawar) Division.

2. The staff for this depôt will consist of :—

1 Commandant.
1 Quartermaster.
1 Adjutant.
1 Acting Sergeant Major.
1 Acting Quartermaster Sergeant
1 Provost Sergeant.
1 Acting Orderly Room Sergeant.
1 Clerk to Quartermaster.
1 Acting Orderly Room clerk for each unit represented at the depôt at a strength of 100 or more (to deal with the documents of his own unit).

Pay Sergeants and pay clerks will be appointed on the following scale :—

1 Pay Sergeant for less than and not exceeding 250 men.
1 Pay Sergeant *plus* 1 pay clerk for more than 250 but not exceeding 600 men.

2 Pay Sergeants *plus* 1 pay clerk for more than 600 but not exceeding 750 men.

2 Pay Sergeants *plus* 2 pay clerks for more than 750 but not exceeding 900 men.

3 Pay Sergeants *plus* 2 pay clerks for more than 900 but not exceeding 1,100 men.

3 Pay Sergeants *plus* 3 pay clerks for more than 1,100 but not exceeding 1,500 men.

1 Storeman (if more than 400 men in the depôt, a second storeman will be appointed).

3. Conservancy establishment will been the scale laid down in Table 4, Army Tables, Miscellaneous Services, part I, page 6, note "Hill Sanataria", and will be paid at lowest local rates at which obtainable.

4. Staff pay will be admissible as follows :—

Commandant	Rs. 200	per mensem.
Adjutant	" 75	"
Quartermaster	" 60	"

The acting sergeant major, quartermaster sergeant, provost and pay sergeants will receive extra duty pay as laid down in Army Regulations, India, Volume I, paragraphs 570 and 571.

Pay clerks and storemen will receive extra-duty pay as laid down in Army Regulations, India, Volume I, paragraph 151.

The acting orderly room sergeant and acting orderly room clerks will be appointed only in the absence of battalion orderly room sergeants and clerks from the depôt.

They will receive extra-duty pay as follows :—

Acting Orderly Room Sergeant	Rs. 10	per mensem.
" " " Clerk	" 7-8	"

Contingent and stationery allowances will be admissible as under :—

Contingent allowance	Rs. 70	per mensem.
Stationery "	" 30	"

The staff and extra-duty pay referred to above will be admissible from the dates the individuals concerned take up their appointments.

Contingent and stationery allowances will be admissible from the date from which the depôt is opened.

5. The expenditure should be adjusted in the same way as that of British Regular units serving in India.

[53783 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

2 Pay Sergeants *plus* 1 pay clerk for more than 600 but not exceeding 750 men.

2 Pay Sergeants *plus* 2 pay clerks for more than 750 but not exceeding 900 men.

3 Pay Sergeants *plus* 2 pay clerks for more than 900 but not exceeding 1,100 men.

3 Pay Sergeants *plus* 3 pay clerks for more than 1,100 but not exceeding 1,500 men.

1 Storeman (if more than 400 men in the depôt, a second storeman will be appointed).

3. Conservancy establishment will been the scale laid down in Table 4, Army Tables, Miscellaneous Services, part I, page 6, note "Hill Sanataria", and will be paid at lowest local rates at which obtainable.

4. Staff pay will be admissible as follows :—

Commandant	Rs. 200	per mensem.
Adjutant	,, 75	,,
Quartermaster	,, 60	,,

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They will receive extra-duty pay as follows :—

Acting Orderly Room Sergeant	Rs. 10	per mensem.
,, ,, ,, Clerk	,, 7-8	,,

Contingent and stationery allowances will be admissible as under :—

Contingent allowance	Rs. 70	per mensem.
Stationery ,,	,, 30	,,

The staff and extra-duty pay referred to above will be admissible from the dates the individuals concerned take up their appointments.

245]

Contingent and stationery allowances will be admissible from the date from which the depôt is opened.

5. The expenditure should be adjusted in the same way as that of British Regular units serving in India.

[53783 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 240 of 1918.

DELHI,

12th March 1918.

8. Re-organization of Followers' Central Depots.

In supersession of all previous orders regarding the formation [illegible] Followers' Central Depots, it has been decided that the establishment of such depôts shall be as follows :—

For First Class Depôts.

1	Commandant . . .	Pay and allowances of rank *plus* Rs 250 *per mensem* staff pay.
3	Assistant Commandants .	Pay and allowances of rank *plus* Rs. 150 per mensem staff pay.
[illegible]	Pensioned Indian Officers .	Rs. 100 per mensem consolidated, *plus* pension
[illegible]	Pensioned Havildars or Naiks.	Pay and allowances of rank, *plus* pension
[illegible]0	Chowdhris	Rs. 10 per mensem *plus* free rations.

For Second Class Depôts.

Commandant . . .	Pay of rank *plus* Rs 250 per mensem staff pay.
Assistant Commandants .	Pay of rank *plus* Rs. 150 per mensem staff pay.
Pensioned Indian Officers .	*Rs. 100* per mensem consolidated, *plus* pension.
Pensioned Havildars or Naiks	Pay and allowances of rank, *plus* pension.
Chowdhris	Rs 10 per mensem, *plus* free rations.

Note.—The scales of clothing for the Indian officers and non-commissioned officers are laid down in Army Department letters No 1037 dated 17th [illegible] 1917, and No. 3825 dated 14th March 1917.

2. *Clerical Establishment.*—The clerical establishment of the depôt will be fixed at the discretion of the Officer Commanding. For this purpose the Officer Commanding will receive a sum not exceeding Rs. 100 per mensem till the strength of the followers on the books of the depôt reaches 500. For every 250 followers or fraction of that number in excess of 500, the Officer Commanding will receive an additional Rs. 50 per mensem, but no Officer Commanding will expend more than Rs 2,500 per mensem under this head without the special authorization of the General Officer Commanding. This money may be disbursed amongst the clerical establishment at the discretion of the Officer Commanding the Depôt, provided the sum sanctioned is not exceeded and that no more clerks are employed than are absolutely necessary.

3. *Depôt allowances.*—

	For First Class Depôts.	For Second Class Depôts.
	Rs.	Rs.
Recruiting Allowance. (Permanent Imprest)	500	500
Contingent allowance	100 p. m	100 p. m.
Office allowance	100 ,,	75 ,,

4. *Recruiting Area*—The Recruiting Area of each Depôt will be as decided from time to time by the Adjutant General in India.

5. *Entertainment of a limited number of followers for service in India.*—Officers Commanding Depôts are authorized to engage a limited number of followers *for service in India*, if fit, from amongst men rejected as unfit for service overseas.

6. *Discipline and Administration of Depôts*—Each Depôt will be under the General Officer Commanding the Division concerned for purposes of discipline and administration. All *questions* connected with recruiting and despatch of reinforcements will be dealt with by the Adjutant General in India Officers Commanding Depôts will exercise the disciplinary powers of a Commanding Officer, and may grant, at their discretion, short leave to followers who are proceeding on field service

7. *Telegrams*—Officer Commanding Depôts are authorized to use "O. H. M. S." forms for the despatch of all telegrams connected with the working of the depôt The telegraphic address "Followers" has been registered for all Followers' Central Depôts.

8. *Recruiting Pamphlets.*—Officers Commanding Depôts are authorized to have such vernacular recruiting pamphlets, as may be considered necessary by the Local Civil Authorities, printed locally, the expenditure involved being recovered on a contingent bill (India Army Form A.-115), to be submitted to the Divisional Disbursing Officer concerned.

9. A treasury guard will be provided under arrangements made by the General Officer Commanding the Division in which each depôt is situated.

10. The followers will be engaged on the terms set forth in Army Instruction (India) No. 64 of 1918.

[49542 (A. G.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 247 of 1918.

DELHI,

12th March 1918.

47. Leave camps and depots British Troops. Additional staff and establishments during leave season 1918.

The following additional staffs and establishments with the rates of pay mentioned are sanctioned for the leave camps and depôts mentioned below for the leave season 1918.

Leave camp at Kirkee for British Cavalry and British miscellaneous details, and at Deolali for British ranks (Royal Artillery) and Machine Gun Companies.

——	Pay.	Staff Pay.
1 Commanding Officer	Pay of rank and branch	Rs 250 per mensem.
1 Adjutant	Ditto	Rs 60 per mensem.
1 Quartermaster	Ditto	Ditto.
Officers in command of 100 leave details.	Command pay at Rs. 25 per mensem each.	...
1 Medical Officer	Pay of rank	....
1 Acting Serjeant Major	Extra duty pay at 6 annas per diem.	...
1 Acting Quartermaster Serjeant	Ditto.	...
1 Pay Serjeant	Extra duty pay at Rs. 7 per mensem.	...

	Pay.	Staff pay.
2 Orderly Room clerks	Extra-duty pay at Rs. 5 per mensem each.	...
1 Provost Serjeant	Extra-duty pay at Rs. 10 per mensem.	...
1 Provost Corporal	Regimental pay and allowances.	...
1 Armourer Serjeant	Pay in accordance with paragraph 535, Army Regulations, India, Volume I.	...
1 Assistant Armourer	Extra-duty pay at annas 6 per diem	...
50 Duty men *plus* soldier cooks to be drawn from Reserve and Garrison Battalions	Pay of rank	...
1 Company Quartermaster Serjeant for every 200 non commissioned officers and men attached to the leave camps at any one time	Extra-duty pay at annas 6 per diem each for work as Pay Serjeant.	...
Office allowance including Adjutant's and Quartermaster's allowance also Company allowances Rs 150 per mensem	...	...

Royal Engineering Training Company, Bangalore.

1 Pay Serjeant for every 100 non-commissioned officers and men attached to the training Company at any one time	Extra-duty pay at Rs 7 per mensem each	...
1 Additional clerk	Extra-duty pay at Rs. 10 per mensem	...

(This establishment is conditional on there being no men of the Royal Engineers available in the company for these duties)

Army Service Corps depôt, Bangalore.

1 Acting Quartermaster Serjeant	Extra-duty pay at annas 6 per diem.	...
1 Acting Pay Serjeant for every 100 non-commissioned officers and men attached to this Army Service Corps Depôt at any one time	Extra-duty pay at Rs 7 per mensem.	...
2 Additional clerks	Extra-duty pay at Rs. 10 per mensem each.	...

(This establishment is conditional on there being no men of the Army Service Corps available at the Depôt for these duties)

	Pay.	Staff pay.
Royal Army Medical Corps depôt at Deolali.		
1 Pay Serjeant for every 100 non-commissioned officers and men attached to the Royal Army Medical Corps Depôt at any one time.	Extra-duty pay at Rs. 7 per mensem.	...
1 Additional clerk	Extra duty pay at Rs 10 per mensem.	

The expenditure involved will be debitable to His Majesty's Government.

[56996 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

	Pay.	Staff pay.
2 Orderly Room clerks . .	Extra-duty pay at Rs. 5 per mensem each.	...
1 Provost Serjeant . . .	Extra-duty pay at Rs. 10 per mensem	...
1 Provost Corporal . . .	Regimental pay and allowances	...
1 Armourer Serjeant . . .	Pay in accordance with paragraph 535, Army Regulations, India, Volume I	...
1 Assistant Armourer	Extra-duty pay at annas 6 per diem.	...
50 Duty men *plus* soldier cooks to be drawn from Reserve and Garrison Battalions	Pay of rank . . .	...
1 Company Quartermaster Serjeant for every 200 non-commissioned officers and men attached to the leave camps at any one time	Extra-duty pay at annas 6 per diem each for work as Pay Serjeant.	...
Office allowance including Adjutant's and Quartermaster's allowance also Company allowances Rs 150 per mensem	...	...

Royal Engineering Training Company, Bangalore.

1 Pay Serjeant for every 100 non-commissioned officers and men attached to the training Company at any one time	Extra-duty pay at Rs. 7 per mensem each	...
1 Additional clerk . . .	Extra-duty pay at Rs 10 per mensem	...

(This establishment is conditional on there being no men of the Royal Engineers available in the company for these duties.)

Army Service Corps depôt, Bangalore.

1 Acting Quartermaster Serjeant .	Extra-duty pay at annas 6 per diem.	...
1 Acting Pay Serjeant for every 100 non-commissioned officers and men attached to this Army Service Corps Depôt at any one time.	Extra-duty pay at Rs 7 per mensem.	...
2 Additional clerks . . .	Extra-duty pay at Rs. 10 per mensem each.	...

(This establishment is conditional on there being no men of the Army Service Corps available at the Depôt for these duties.)

247 I

Revised scale of armourers' tools for units of the Indian Defence Force.

Item No.	Articles.	Number per armoury for units armed with		
		1914 pattern rifles	Short rifles	Carbines.
	Section 7.			
1	Hammers, riveting, 4—oz. . No	1	1	1
2	Pliers, flat nose . . . Prs	1	1	1
	Weedon Section.			
3	Braces, armourers :— . . No.	1	1	1
4	Bits, screwdriver, buttplate screw. „	1	1	1
5	Bits, screwdriver, stockbolt M. L. M „	...	1	1
6	Cans, oil, lubricating, armourers „	1	1	1
	Clams, regimental armourer, parallel vice :—			
7	Cork lined . . . Prs	1	1	1
8	Leather lined . . . „	1	1	1
9	Cleaners, breech ·256-inch rifle No	1	...	...
10	Depressors, platform, magazine ·303-inch rifle, pattern 1914. „	1	...	...
	Drifts :—			
11	Fore-end, M. L. M. R. Mark II. „	...	1	1
12	Magazine catch pin, M. L. M. „	1	1	1

Revised scale of armourers' tools for units of the Indian Defence Force—contd.

Item No.	Articles.		Number per Armoury for units armed with		
			1914 pattern rifles.	Short rifles.	Carbines
	Weedon Section—concld.				
	Screwdrivers :—				
28	Armourers, large	„	1	1	1
29	„ small	„	1	1	1
30	Extractor axis, M. L. M.	„	1	1	1
31	Fork dial sight, M. L. M.	„	1	1	...
32	Testers, trigger pull	„	1	1	1
	Tools :—				
33	Adjusting foresight, R. S. M. L. E, punches	„	1 (*b*)	1 (*b*)	...
	Clearing, ·303-inch arms :—				
34	Bits, screw	„	1	1	1
35	Bushes, bit screw	„	1	1	1
36	Rods	„	1	1	1
37	Extractor, spring	„	...	1	1
38	Tools stripping bolt, No. 2.	„	2	...	...
	Tools, removing :—				
39	Handguard, No. 1	„	...	1	...
40	Stricker, pattern "B"	„	...	...	1
41	Stricker R. S. M. L. E.	„	...	1	...
42	War, stock bolts	„	...	1	1
43	Vices, parallel, regimental armourers.	„	1	1	1

(*a*) "Rods, cleaning, ·303-inch, No. 2" with a "bush, stop rod cleaning, ·303-inch, No. 3" may be issued in lieu.
(*b*) For expanding end of swivel screws.
Note.—Units which have both rifles and carbines on charge should demand only those items special to the latter in addition to those common to both weapons.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 249 of 1918.

DELHI,

12th March 1918.

249. Formation of No. 12 (Burma) Porter Corps composed of jail prisoners for service in Mesopotamia.

Sanction is accorded to the formation of No. 12 (Burma) Porter Corps composed of jail prisoners for service in Mesopotamia.

The establishment and organisation of the Corps are detailed in the attached Appendix A.

The Corps will be enrolled and organised under the orders of the Adjutant General in India.

[43688 (A. G.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

2. All ranks will be enrolled on Form No. III-D (as amended by Army Department notifications Nos. 1665 and 2270, dated the 28th September and the 29th December 1917, respectively), for the period of the war, with effect from the date of leaving jail for field service.

3. Convicts will be granted a conditional release by the Local Government from the date of embarkation at Rangoon for service overseas.

4. Convicts on return to India will be disposed of in accordance with the instructions contained in Army Department letter No. 2131, dated 13th February 1917 (copy attached).

5. *Tentage.*—The following tentage will be allowed :—

Tents, I. P., complete, G. S., 80 lbs.	6
Tents, I. P., complete, G. S., 21 lbs.	350

6. *Equipment.*—The following miscellaneous and medical equipment will be allowed :—

Miscellaneous Equipment.

4 Tables.
6 Stools.
2 Chairs.
4 Lamps, spring candle, with 2 dozen candles.
2 Leather bags for letters.
2 Yakdans with necessary stationery.
50 Felling axes.
50 Khukries or dahs.
100 Mattocks.
10 Spring balances.
10 Bunniahs' scales and weights.
5,000 Yards [illegible] loads).
250 [illegible] of awkward loads).
10 [illegible]
2 Sets punches, numerals (O.-9).
2 Sets punches, letters.
4 Sets stencil plates (one inch) with Bolowah ink, complete in box.
4 Small hammers, Canterbury, claw.
8 Mussacks.
8 Doles.
Section sets cooking pots—1 set per 25 men.
1,233 Log lines (for tying up kits).

Medical Equipment.

1 Pair field medical panniers.
1 Field medical companion.
1 Field surgical haversack.
1,228 First field dressings.

7. *Clothing.*—Clothing will be supplied in accordance with scales laid down from time to time in India Army Orders.

8. *Rations and firewood.*—Whilst serving in India, Indian officers and havildars will draw rations or a money allowance in lieu of rations on the scales laid down in Army Department letters Nos. 2438* and 9173,* dated the 17th February and 21st June 1917, respectively.

* Communicated with Army Department endorsement Nos 2439 and 9174, dated the 17th February and 21st June 1917, respectively, to the Controllers of Military Accounts.

Free clerks will receive free rations only from the date of embarkation; the remainder will receive free rations on the scale laid down in Army Department letter No. 14270,† dated the 22nd September 1917, from date of enrolment, and if this personnel serves in India at a place where the Supply and Transport Corps is not represented, a money allowance in lieu of rations will be allowed at the rate sanctioned in Army Department letter‡ No. 6767, dated the 9th May 1917. While overseas all personnel will draw rations in accordance with the scale in force.

† Communicated with Army Department endorsement No 14271, dated the 22nd September 1917, to the Controllers of Military Accounts.

‡ Communicated with Army Department endorsement No 6768, dated the May 1917, to Heads Branches of Army Headquarters and Controllers of Military Accounts.

9. *Followers, baggage, etc.*—Private followers, baggage, on the scale authorised for Indian Expeditionary Force "D," will be taken with the Porter Corps. Chargers for officers will be supplied at the Base if necessary.

10. *Advance of pay.*—Free men may be granted one month's advance of pay. Convicts should not receive more than Rs. 5 unless the convict wishes to make a family allotment, in which case three months' advance may be sanctioned and all but Rs. 5 be sent to the allottee under arrangements made by the Commandant in communication with the Officer Commanding, Jail Labour Depôt.

11. Whilst in India the Officer Commanding the Porter Corps is authorised to submit requisitions for cash for pay and other expenditure to the Controller of Military Accounts concerned and arrange in direct communication with that officer for the submission of accounts for audit.

12. The Indian officers and havildars only are eligible for the special field allowance authorised in India Army Order 175 of 1916.

13. The 12th (Burma) Jail Porter Corps will constitute a Corps for the purposes of the Indian Army Act in accordance with Army Department notification No. 1033, dated 15th October 1915.

PENSIONS.

14. *Indian Officers and Havildars of Burma Police.*—Wound and injury and family pensions under Army Regulations, India, Volume I, for men of the Indian Army of corresponding rank, or under the rules and scales in the Civil Service Regulations, whichever may be more favourable, *vide* Statement A attached to Army Department letter No. 11886*, dated the 20th October 1916.

* Communicated with Army Department endorsement No. 11887, dated the 20th October 1916, to General Officers Commanding Divisions and Brigades and Controllers of Military Accounts.

Convict Naiks, Porters, Bhistis and Sweepers.—Wound and injury pensions under Army Regulations, India, Volume I, paragraph 1062, as for sepoys as regards conditions, but ¾ rates in all cases.

Family pensions.—Under Army Regulations, India, Volume I, paragraph 1074.

15. The cost of all measures connected with the Porter Corps will form a charge against the Imperial Government and should be debited to the Central War Controller for adjustment.

Copy of a letter from the Secretary to the Government of India, Army Department, to the Adjutant General in India, No. 2131, dated the 13th February 1917.

I am directed to convey the approval of the Government of India to the following rules relating to the disposal, on their return to India, of convicts who have been enrolled for service in Mesopotamia:—

(1) Convicts returned for misconduct should be handed over to the local civil police authorities at the port of disembarkation, in the case of Bombay to the Commissioner of Police, Bombay, and in the case of Karachi to the Deputy Superintendent, Criminal Investigation Department in Karachi, and transferred thence to their original jails under civil arrangements.

(2) Convicts invalided for sickness or other causes will be treated as free men except that they will not be given

leave from the Convalescent Section, which is combined with the depôt, and will be sent on service again when they are pronounced fit, if the period for which they were enrolled has not expired.

(3) Convicts who are pronounced unlikely to be fit within a reasonable time should be discharged by the Officer Commanding the Depôt in communication with the head of their civil district. The convict will be given by the Officer Commanding the Depôt a warrant for the railway journey home, and if other precautions are necessary to secure him returning to his destination the District Officer will be responsible for arranging for the same.

(4) In the event of a convict being discharged before recovery of the whole or any portion of the amount granted him as an advance of pay has been effected, the amount unrecovered should be written off.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 250 of 1916.

DELHI,

13th March 1916.

250. Organisation of Armoured Motor Batteries in India.

In modification of all previous orders * on the subject, it has been decided to group the Armoured Motor Batteries in India into Brigades and the sanction of the Government of India is accorded to the attached scheme.

* Vide Army Department letter No. H.-2497, dated 1st March 1915, and Army Department letter No. H. 8162, dated 2nd October 1915.

2. The object of the new organisation is to ensure proper supervision, efficient and uniform training, constant inspection and improved administration, combined with systematic arrangements for tactical and technical instruction.

3. Separate orders will be issued hereafter as regards the pay and allowances of the personnel.

4. No expenditure should be incurred in the provision of additional accommodation required in connection with the scheme without the sanction of the Government of India being obtained to the estimated cost of each item.

5. The cost of the measure should be debited to the special service head "War India—measures of internal defence" ... books of the Central War Control ...

... the following new sub-... heads should be opened for the purpose before the

sub-grant "British Army—Engineers" in the India Army Estimates and Accounts:—

British Army Armoured Motor Batteries.

Pay of Officers.
Pay of Warrant Officers.
Pay of Non-Commissioned Officers.
Pay of Rank and File.
Pay of Indian Non-Commissioned Officers.
Pay of Indian Rank and File.
Pay of Regimental Educational Establishments, etc.
Pay of Indian Artificers and Followers.
Exchange Compensation Allowance.
Command, Staff, Horse and Extra-duty Allowances.
Contract Allowances.
Miscellaneous Allowances
Good-service and Good-conduct Pay to Indians.
Messing Allowance.
Service or Proficiency Pay to British Soldiers.
Contribution in respect of Insurance Charges under the National Insurance Act.

[18266 (G. S.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

Scheme for the Organisation of Armoured Motor Batteries in India.

At present armoured motor cars in India are organised in batteries of three cars. These batteries are classed " A " and " B."

2. In future, class " A " Armoured Motor Batteries will be distributed and grouped as shown in the attached Statement I. Those class " B " batteries which have been retained will be affiliated to the class " A " in certain Brigades

3. There will be 27 class " B " Batteries, of which 9 will be *left unarmoured for use as light motor patrols. Of the remainder,* 13 will be re-equipped with the cars to be set free from existing class " A " Batteries on the re-equipment of the latter with a more suitable type of car expected from England, one will be located at Poona, and two each at Calcutta and Bombay at which stations suitable types of cars for armament can be obtained locally. Further instructions regarding class " B " Armoured Motor Batteries will be issued under the orders of His Excellency the Commander-in-Chief in India.

4. Nos. 1, 2 and 10 Armoured Motor Brigades will have their Headquarters at Peshawar, Ferozepore and Bannu, respectively.

The Commanders of each of these Brigades will be provided with a motor car. A separate Headquarters will not be provided for the other Brigades.

5. No. 1 Armoured Motor Brigade at Peshawar will be the Headquarter Brigade and Instructional School.* It will be provided with the Staff detailed below:—

A Commandant (Officer Commanding No. 1 Brigade).

An Adjutant.

A Sergeant Major.

A Quartermaster Sergeant.

A Sergeant Driver.

* The Commandant will also act as Inspector of Armoured Motor Batteries, and will be granted the temporary rank of Major, if not already of that rank.

6. The personnel for the Armoured Motor Batteries will be provided as follows :—

For Class " A " Batteries.

In Peshawar Quetta Ferozepore Ambala	from British regular or Territorial Force Infantry.
Kohat Bannu Dera Ismail Khan	from Indian Infantry; with British drivers found from regular or Territorial Force Infantry.

The remainder—from Indian Defence Force.

For Class " B " Batteries.

From Indian Defence Force.

The British Regular or Territorial Force Infantry personnel will be transferred to the Machine Gun Corps after one month's probation in an Armoured Motor Battery. The Indian Infantry personnel will be seconded in their units for not more than three years after a similar period of probation.

7. The War Establishments of an Armoured Motor Battery and of the several Brigades are detailed in Statements II to II (*d*).

8. Class "A" Batteries will be equipped with one Machine Gun per car and Class " B " Batteries with one machine gun per battery; the latter will be completed to one machine gun per car when guns become available.

9. The following arrangements are authorised with a view o ensure the effective supervision and maintenance of armoured r vehicles :—

(*i*) All Armoured Motor Battery Commanders will undergo a course of training in carrying out running repairs at the headquarters of a Mechanical Transport unit.

(*ii*) An artificer, who has been included in the establishment of each Armoured Motor Battery, will be provided with the necessary tools to carry out running repairs to the cars and also minor repairs to the machine guns.

(*iii*) Heavy repairs will be carried out at the local mechanical transport workshops where available. In other cases, local facilities should be made use of; an allotment for repairs will be made to the armoured motor batteries concerned.

(*iv*) A periodical inspection of all vehicles will be made by an Inspector of Mechanical Transport.

STATEMENT I.

Distribution and grouping of armoured motor batteries into brigades.

		Brigade Hqrs.	BATTERIES. "A" Class	BATTERIES. "B" Class.*
No. 1 Brigade	Peshawar	1	3	1
No. 2 Brigade (6 batteries)	Lahore	...	1*	1
	Rawalpindi	...	...	1
	Ferozepore	1	1	...
	Ambala	...	1	1
No. 3 "	Delhi	...	1*	...
	Bareilly	...	...	1
	Meerut	...	...	1
	Agra	...	...	1
No. 4 "	Lucknow	...	1*	1
	Cawnpore	...	...	1
	Allahabad	...	...	1
No. 5 " (6 batteries)	Calcutta	...	1*	2
	Asansol	...	...	1
	Bankipore	...	...	1
	Benares	...	...	1
No 6 " (2 batteries only).	Quetta	...	1	...
	Karachi	...	...	1
No 7 "	Jhansi	...	...	1
	Kamptee	...	...	1
	Jubbulpore	...	...	1
	Ajmere	...	...	1
No. 8 " (6 batteries)	Mhow	...	...	1
	Ahmedabad	...	...	1
	Bombay	...	1*	2
	Kirkee	...	...	1
No. 9 " (3 batteries only).	Secunderabad	...	1*	...
	Bangalore	...	...	1
	Madras	...	...	1
No. 10 " (Indian personnel).	Kohat	...	1	...
	Bannu	1	2	...
	Dera Ismail Khan	...	1	...

* To be manned by I. D. F. personnel.

ATEMENT II.

AN ARMOU D MOTOR BATTERY "A" OR "B."

(3) Armoured Cars with 1 Machine Gun each).

War Establishment.

Detail.	PERSONNEL — Fighting men — British. — Officers.	Warrant Officers.	Staff serjeants and Serjeants.	Artificers.	Rank and File	Total.	Indian. — Non-Commissioned Officers	Artificers	Rank and File.	Total.	Followers. — Public	Private.	Attached Transport. — Motor cars.	Armoured cars.	Attached. — Tenders or lorries.	Personnel.
One A M Battery																
Captain or Subaltern	1		...	...	...	1	...	..				1		...		
Serjeants (a)			2	...		2							..	...	..	
Corporal (a)					1	1						..	...	...	...	
Clerk (a)	..		..		1	1							..	...	...	
Storeman (a)		..	...		1	1			...		..			...		
Cook (b)					1	1						...		...		
Artificer (a)	...		...	1		1					...	...		...	...	...
Privates (a)		..		...	(c)18	18						...	...	...		
Cleaners				..	..						2	...	...	...	..	
Public Followers			..		..						2(d)	..	..	..	..	
Total	1		2	1	22	26				...	4	1	..	3	1(e)	2

Remarks.

(a) In the units of No. 10 A. M. Brigade personnel is replaced by Indian personnel except for 6 drivers Armoured cars.
(b) Cook is replaced by 1 Public Follower in units of No. 10 A M Brigade.
(c) Includes 2 Lance Corporals. 6 Reserve men.
(d) 1 Bhisti, 1 sweeper.
(e) 1 tender with 2 drivers forms part of the establishment in the case of Nos. 1 and 6 A. M. Batteries. In all other units it is attached as required, if available.

Note I. 1 pickaxe, 1 shovel, 1 felling axe, 1 crowbar, 1 bill hook, 1 tow rope, 1 tarpaulin } are carried on each car.

II. The crew of an armoured car consists of :
1 car commander (non commissioned officer).

STATEMENT II (a).

No. 1 PESHAWAR (HEADQUARTERS) ARMOURED MOTOR BRIGADE.

(Comprising Headquarters and three "A1" Class Batteries and one "B" Class Battery.)

War Establishment.

Detail	Personnel — Fighting Men — British — Officers.	Warrant Officers	Staff Serjeants and Serjeants	Artificers	Rank and File	Total.	Indian — Non-Commissioned Officers.	Artificers.	Rank and File	Total	Followers — Public	Followers — Private	Motor cars	Armoured cars.	Attached — Tenders or lorries.	Attached — Personnel.	Remarks.
No. 1 (Headquarters) Brigade.																	
Headquarters—																	
Commandant	1	...	..	..	...	1	...	...	..	...	...	1	1	...	...	...	
Adjutant	1	...	...	...	...	1	...	...	.	.	...	1	...	...	...	...	
Serjeant Major	...	1	...	...	...	1	..	..	...	...	...	...	..	...	...	...	
Quartermaster Serjeant	...	...	1	...	...	1	...	...	...	...	...	...	...	..	.	...	
Serjeant Driver	...	...	1	...	...	1	...	...	...	...	..	...	...	...	...	...	
Total	2	1	2	...	...	5	...	...	...	...	.	2	1	...	...	...	
4 Armoured Motor Batteries	4	...	8	4	88	104	...	...	...	..	(a) 16	4	..	12	(b) 4	8	
Total No. 1 (Headquarter) Brigade.	6	1	10	4	88	109	...	...	...	...	16	6	1	12	4	8	

(a) Includes 8 cleaners.
(b) In No. I. A. M. B. one tender with 2 drivers forms part of the unit. In the other units one tender lorry with 2 drivers is attached as required if available.

STATEMENT II (*b*).

No. 2 A. M. BRIGADE.

(COMPRISING HEADQUARTERS AND THREE "A" CLASS BATTERIES AND THREE "B" CLASS BATTERIES.)

War Establishment.

Detail.	PERSONNEL.										FOLLOWERS.				ATTACHED		REMARKS.
	FIGHTING MEN.																
	British.						Indian.										
	Officers.	Warrant Officers.	Staff Serjeants and Serjeants	Artificers.	Rank and File.	Total.	Non-Commissioned Officers	Artificers	Rank and File.	Total.	Public.	Private.	Motor cars.	Armoured cars.	Tenders or lorries.	Personnel.	
No. 2 A. M. BRIGADE. (*a*)																	(*a*) Lahore. Rawalpindi. Ferozepore. Ambala. (*b*) Includes 12 cleaners. (*c*) One tender or lorry and 2 drivers are attached as required, if available.
Headquarters—																	
Commandant	1	...	...	...	...	1	...	...	...	...	...	...	...	...	...	..	
Serjeant-Major	...	1	...	...	...	1	...	...	...	...	...	...	..	...	..	..	
Motor Car Driver	...	...	...	...	1	1	...	...	...	...	...	...	...	...	...	...	
Total	1	1	...	...	1	3	...	...	...	...	...	1	1	...	...	..	
6 A. M. Batteries	6	...	12	6	132	156	...	...	...	...	(*b*) 24	6	...	18	(*c*) 6	12	
Total No. 2 A. M. Brigade	7	1	12	6	133	159	...	...	...	...	24	7	1	18	6	12	

STATEMENT II (c).

No. 10 A. M. BRIGADE

(Comprising Headquarters and four "A" Class Batteries with Indian Personnel.)

War Establishment.

Detail	Personnel. Fighting men. British. Officers	Warrant officers.	Staff Serjeants and Serjeants	Artificers	Rank and File.	Total.	Indian Non-Commissioned Officers	Artificers.	Rank and File.	Total.	Followers. Public.	Private	Motor cars	Armoured cars.	Attached. Tenders or lorries	Personnel.	Remarks.
No. 10 A. M Brigade (a)	...	...	...	...	...	...	...	...	...	..	...	..	...	...	...	...	(a) Kohat, Bannu, Dera Ismail Khan (b) Armoured Car Drivers. (c) Includes 4 cooks, 8 cleaners (d) In No 6 (Bannu) A. M. B. one tender with 2 drivers forms part of the establishment. In the 3 other units, one tender or lorry with 2 drivers is attached as required, if available.
Headquarters— Commandant	1	...	...	...	...	1	...	...	...	...	...	...	...	...	...	...	
Serjeant-Major	...	1	...	...	...	1	...	...	...	...	...	...	...	...	...	...	
Motor Car Driver	...	...	...	...	1	1	...	...	...	...	...	...	...	...	..	...	
Total	1	1	...	...	1	3	...	...	...	...	..	1	1	...	...	...	
4 A. M. Batteries	4	...	...	...	(b) 24	28	8	4	60	72	(c) 20	4	...	12	(d) 4	8	
Total No. 10 A. M Brigade	5	1	...	...	25	31	8	4	60	72	20	5	1	12	4	8	

STATEMENT II (*b*).

No. 2 A. M. BRIGADE.

(COMPRISING HEADQUARTERS AND THREE "A" CLASS BATTERIES AND THREE "B" CLASS BATTERIES.)

War Establishment.

Detail.	Personnel. Fighting men. British. Officers.	Warrant Officers.	Staff Serjeants and Serjeants	Artificers.	Rank and File	Total.	Indian. Non-Commissioned Officers	Artificers	Rank and File.	Total.	Followers. Public.	Private.	Motor cars.	Armoured cars.	Attached. Tenders or lorries.	Personnel.	Remarks.
No. 2 A. M. BRIGADE. (*a*)																	(*a*) Lahore Rawalpindi. Ferozepore. Ambala
Headquarters—																	
Commandant	1	...	...	...	...	1	...	...	...	...	...	...	...	...	...	..	(*b*) Includes 12 cleaners
Serjeant-Major	...	1	...	...	...	1	...	...	...	...	...	...	...	...	...	..	(*c*) One tender or lorry and 2 drivers are attached as required, if available
Motor Car Driver	...	...	...	...	1	1	...	...	...	...	...	...	...	...	...	...	
Total	1	1	...	...	1	3	...	...	...	...	...	1	1	...	...	.	
6 A. M. Batteries	6	...	12	6	132	156	...	...	...	...	(*b*) 24	6	...	18	(*c*) 6	12	
Total No. 2 A. M. Brigade	7	1	12	6	133	159	...	...	...	...	24	7	1	18	6	12	

OF INDIA.

RTMENT.

ION (INDIA).

1918.

DELHI,

19th March 1918.

:ee stencillers for the)epôt, Dadar, and one ombined Labour Depôt,

·rtainment of three stencillers dar, and one stenciller for the on a maximum pay of Rs. 20 ·f stencilling identity numbers ›ersonnel passing through these

; debitable to His Majesty's ›ted through the Central War

[959-G. (A. G.). / E.]

LEY, *Major-General,*

to the Government of India.

1

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 252 of 1918.

DELHI,

19th March 1918.

Formation of classes for the instruction in equitation and stable management of young officers and non-commissioned officers of mobile artillery units.

Sanction is accorded to the formation of two classes at each of following stations :—

Rawal Pindi, Meerut and Kirkee.

The classes will be of approximately six weeks duration each. ey will be held during the hot weather of 1918, under the orders the Chief of the General Staff who will fix dates, etc.

2. The following staff will be employed, at the rates of staff and extra-duty pay, etc., stated :—

Rawal Pindi and Meerut Classes.

Two riding masters (one at each station) at Rs. 100 per mensem h staff pay.

Four rough riders (two at each station) at Rs. 20 per mensem ch extra-duty pay.

Kirkee classes.

One riding master (Temporary Captain and Riding Master, oyal Artillery), employed with the Army Remount Department, Rs. 5 per diem detention allowance. He will, in addition, ntinue to draw the Rs. 75 per mensem deputation allowance, which receives while employed in the Remount Department. He will replaced in that department by a Royal Artillery officer who ll draw Rs. 75 per mensem deputation allowance for approximate 3 months.

Two rough riders at Rs. 20 per mensem each extra-duty pay.

These rates of pay and allowances will be admissible during the interval between the two classes at each station.

3. The expenditure involved is estimated at Rs. 1,500 approximately and is debitable to His Majesty's Government through the Central War Controller.

The above does not include incidental travelling and (except in the case of the riding master specified) detention allowances, which (with the exception quoted) will be met from ordinary provision for that purpose at the disposal of General Officers Commanding.

[19657-G. S. / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 253 of 1918.

DELHI,
19th March 1918.

Continuance of separation allowance to families of soldiers discharged or transferred to the reserve in the United Kingdom.

t has been decided that in cases where a British soldier, whose ly is detained in India owing to the restriction of passages for ien and children, is discharged from the service or transferred ie reserve in the United Kingdom, the issue of separation vance will be continued to his family for so long as they are ined in India in consequence of the restriction of passages to United Kingdom.

[51499 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 254 of 1918.

DELHI,

19th March 1918.

4. Promotion on re-engagement of temporary officers of the Indian Medical Service who joined prior to the 1st January 1917 and who resigned on completion of one year's service or more.

With the approval of the Right Honourable the Secretary of State : India, the Government of India have decided that temporary icers of the Indian Medical Service, who joined the service prior 1st January 1917, and who resigned on completion of one year's :vice or more, will, if re-engaged, be granted the temporary rank of ptain after a total of 18 months' actual service.

[21592 (D. M. S.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 255 of 1918.

DELHI,

19th March 1918.

255. Officers appointed adjutants or acting adjutants and granted the acting rank of captain.

It has been decided, with reference to India Army Order No. 1352 of 1917, that an officer selected for appointment as adjutant in a regularly co [illegible] rank of lieutenant or secon [illegible] captain on the date on [illegible] that an officer who is appointed acting adjutant, during the absence or pending the appointment of a permanent incumbent, will be granted the acting rank of captain (in conformity with the rules contained in India Army Order No. 677 of 1917) from a date 14 days subsequent to that on which he assumes his duties. Pay and allowances as for a lieutenant only will be admissible in such cases as heretofore.

[$\frac{39948 \text{ (A. G.).}}{\text{B.}}$]

A. H. BINGLEY, *Major General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 256 of 1918.

DELHI,
19th March 1918.

6. Provision for dependents of insane Indian soldiers and followers returned from field service overseas.

The Government of India have decided that in the case of dian soldiers and permanent or temporary followers who have urned insane from field service overseas, family allotments shall continued to the allottee by way of advance until the claim injury or disability pension has been disposed of, the disburse-ent being carried out by the Officer Commanding the unit or pôt to which the man originally belonged in communication with e Divisional Disbursing Officer of the Division in which the unit depôt is located.

2. The injury or disability pension ultimately found to be lmissible should have effect from the date following that of the an's discharge from which date pay will cease to be credited his account. The family allotment paid during the intermediate eriod under paragraph 1 above may be more or less than ne pension finally sanctioned and in such cases, if the allotment aid has been greater than the pension, recovery of the difference hould be waived. If the allotment paid has been less than the ension, the difference should be paid to the person concerned.

[67918 (A. G). / R.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 257 of 1918.

DELHI,

19th March 1918.

57. Grant of medical charge allowance to sub-assistant surgeons in medical charge of depots or detachments of Porter, Coolie, or Labour Corps.

It has been decided that the allowance of Rs. 15 or Rs. 10 per mensem authorised under Army Regulations, India, Volume I, paragraph 957, for the temporary medical charge of the wing of a regiment or that of a detachment, respectively, shall be admissible to a sub-assistant surgeon in temporary medical charge of the depôt or a detachment of a Porter, Coolie, or Labour Corps, according to the strength of the depôt or the detachment.

2. This decision has effect from the commencement of the war, and the expenditure involved, which is debitable to His Majesty's Imperial Government, should be passed to the Controller of War Accounts for adjustment.

[21434 (D. M. 4.). / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 258 of 1918.

DELHI,

19th March 1918.

58. Concessions to private practitioners of the sub-assistant surgeon class, who undertake liability for general service.

In addition to the concessions sanctioned in the communications noted in the margin,* it has been decided that private practitioners and retired men of the sub-assistant surgeon class, who undertake liability for general service, shall receive a special allowance of Rs. 50 per mensem as sanctioned† for 3rd and 4th grade civil sub-assistant surgeons.

* Army Department No. H.-8802, dated 27th October 1915.
Army Instruction (India) No. 75, dated 29th January 1918.
Army Instruction (India) No. 128, dated 12th February 1918.

† Army Department letter No. H.-4509, dated 19th May 1916.

[22202 (D. M. S.).
D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 259 of 1918.

DELHI,
19th March 1918.

59. Grant-in-aid of Infants' and Sewing Schools.

It has been decided that, for the remaining period of the war, the grant-in-aid of Infants' and Sewing Schools, under paragraph 1, Army Regulations, India, Volume I, shall be increased from Rs. 1-12-0 to Rs. 3-8-0 for each child above four years of age attending school.

The extra expenditure involved is debitable to the ordinary grant and head of account affected in the Army Estimates.

[01231 (A. G.-7). / C.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 260 of 1918.

DELHI,

19th March 1918.

Command of a field company of sappers and miners when mobilized.

It has been decided that, as a temporary measure during the ent war, a field company of sappers and miners when mobilized l be commanded by an officer holding the rank of Major. If Officer Commanding the Company does not hold the substantive of Major, he may be given the acting rank of Major.

[59010 (A. G.-3). / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 201 of 1918.

DELHI,

19th March 1918.

1. Office establishments of Divisional Artillery Commanders.

The six sanctioned appointments of Commanders, Royal Artil-y, of divisions are now distributed as in India Army Order 51 of 18. These appointments are held under the conditions specified India Army Order 665 of 1911, one of which is that clerical sistance for the officers in question will be found from that sanc-ned for divisional establishments.

2. Owing to changed conditions, however, adequate clerical sistance can no longer be provided in the manner prescribed.

3. Sanction is therefore accorded to the provision of the llowing for each Commander, Royal Artillery, in India :—

One 3rd grade Military Staff clerk on Rs. 120 per mensem, consolidated pay.

One typewriter and one yakdan, at an estimated cost of Rs. 230 for the two.

4. The Military Staff clerk will, in each case, form part of e clerical establishment of the division in which the Com-ander, Royal Artillery's headquarters are situate, and will be borne n the roll of that division for promotion in office grading.

This will result in the addition of a 3rd grade Military Staff lerk to the establishment of each division affected, the selection f a non-commissioned officer to fill the actual appointment of Commander, Royal Artillery's clerk being made under the orders of the divisional commander concerned.

5. No separate office allowance will be granted, but the existing llowance of Rs. 200 per annum, for contingencies, admissible to

Commanders, Royal Artillery, will be added to the contin allowance of the divisional office concerned, and that office supply the Commander, Royal Artillery, with all office requisites.

6. The clerk will be permitted to accompany the Command Royal Artillery, at the public expense, to all practice camps manœuvres in which the artillery under the latter's command engaged.

7. The financial effect of the measure is estimated at Rs. 1,8 initial and Rs. 9,000 per annum recurring which will met from the ordinary grant and head of account affected or reappropriation.

[18231 (G. S.) / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of Ind'

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 262 of 1918.

DELHI,
19th March 1918.

262. Command of a Divisional Signal Company.

It has been decided, as a temporary measure during the present war, that with effect from the 28th September 1917, the command of a Divisional Signal Company shall be held by an officer of the rank of Major. If an officer of the substantive rank of Major is not available, the officer appointed to the command may be given the acting rank of Major while so employed.

[58223 (A. G.-3). / C.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

RMY INSTRUCTION (INDIA).

No. 263 of 1918.

DELHI,

19th March 1918.

263. Refund of the special allowance of Rs. 2 per diem in the case of officers of the Territorial Forces, Special Reserve, New Armies, etc., when appointed to the Regular Army.

It has been decided that all subaltern officers of the Territorial Forces, Special Reserve, New Armies, etc., who are granted permanent commissions in the Regular Army under Army Order No. 295 of 1916, shall not be called upon to refund the special allowance authorised by India Army Order No. 392 of 1915, and India Army Order No. 99 of 1916, when their appointments are antedated to 9 months subsequent to first appointment to a commission in the Territorial Force, etc. In such cases, the special allowance authorised by the India Army Orders referred to above, will cease with effect from the date of the receipt in India, as published in India Army Orders, of the *London Gazette*, notifying the grant of a regular commission. Any sums that have already been deducted from the pay of officers on this account should be refunded to them.

[57899 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

RMY INSTRUCTION (INDIA).

No. 264 of 1918.

DELHI,

19th March 1918.

. **Detention allowance for warrant and non-commissioned officers of the Supply and Transport Corps.**

It has been decided, as a temporary war measure, that rant officers and non-commissioned officers of the Supply and isport Corps, when detained at outstations in India on duty nected with the provision of supplies arranged by the Supply Transport Corps, shall be granted detention allowance at Rs. 3 diem and Rs. 2 per diem, respectively, for each day of detention.

2. This allowance, which is subject to the terms of the definition of "Detention allowance" in Army Regulations, India, Volume I, will be in lieu of any command allowance admissible under rule, and will not be admitted for any day for which travelling allowance is drawn.

3. The expenditure involved is debitable to the ordinary grant and head of account affected.

[828 (Q. M. G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

'ARMY DEPARTMENT.

RMY INSTRUCTION (INDIA).

No. 266 of 1918.

DELHI,

19th March 1918.

266. Training grant for the Indian Defence Force, 1917-18.

It has been decided that the limit of the maximum sum to be expended during 1917-18 for the training of the Indian Defence Force, which was fixed in Army Department letter No. 15928*, dated 23rd October 1917, at Rs. 4,00,000, should be increased to Rs. 4,01,820.

* Communicated to General Officers Commanding, Commands, Divisions and Independent Brigades and all Controllers of Military Accounts with No. 15929, dated 23rd October 1917.

[17431 (G. S.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 267 of 1918.

DELHI,

19th March 1918.

267. Formation of an additional company of Jats to be attached to the depôt, 106th Hazara Pioneers, and another of Bishnois in the 2-10th Jats.

Sanction is accorded to the formation of an additional special company of Jats to be attached to the depôt, 106th Hazara Pioneers, and another of Bishnois in the 2-10th Jats.

2. The terms of enlistment of the men forming these companies and any other special company or companies which may be raised hereafter, will be for the period of the war and for six months afterwards, provided His Majesty shall so long require their services.

3. The following measures are applicable to the raising, training, discipline, etc., of such special companies :—

(i) The appointment of such direct commissioned Indian officers and non-commissioned officers as may be considered necessary by the officer detailed to raise the companies.

(ii) The appointment of 1 havildar and 1 naick for every 20 recruits.

These appointments to be temporary and in addition to any appointed under (i) above.

(iii) The grant of an allowance of Rs. 5 per mensem to the two men performing the duties of pay havildars in each company.

The above appointments will be included in the total strength of the company.

(iv) The grant of an initial allowance to cover the cost of the purchase of books, stationery, etc., of Rs. 30 per company.

(v) The grant of a monthly allowance of Rs. 40 per company.

The recurring allowance referred to above is intended to remunerate clerks, armourers, mochis, etc., for the extra work devolving on them in connection with these special companies.

(vi) The allowances in (iv) and (v) will be drawn on the following conditions :—

(a) The initial allowance when the company is started.

(b) Half the monthly allowance after 25, and the full after 50 men have been enrolled in a company.

(vii) Where a special company is attached to a battalion, the officer placed in charge of the company shall be entitled to the staff pay admissible for the command of a company. The staff pay, however, will not be granted until the strength of the company exceeds 125 men.

4. The extra expenditure involved is debitable to His Majesty's Government and should be passed to the Central War Controller for adjustment.

[$\frac{\text{02207 (A. G.).}}{\text{E.}}$]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 268 of 1918.

DELHI,

19th March 1918.

268. Grant of a sum of Rs. 100 to each depôt of Labour Companies for France, to provide sports gear.

Depôt (Labour for France), Ranchi
Depôt (Labour for France), Gauhati
Depôt (Labour for France), Lucknow.
Depôt (Labour for France), Sagaing
Depôt (Labour for France), Poona
Depôt (Labour for France), Bhim Tal.

Sanction is accorded to an initial grant of Rs. 100 to each of the marginally noted depôts to assist in the purchase and maintenance of sports gear. The amount will be expended under the orders of the Commandants of the depôts concerned.

2. The expenditure involved, which is estimated at Rs. 600, is debitable to His Majesty's Government.

[02345 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 269 of 1918.

DELHI,

19th March 1918.

). Equipment for Engineer Units.

Sanction is accorded to the issue of "Augers, earth, boring" "Rods, extension, 3 ft." on the following scale:—

To each Engineer Field Park	4
To the headquarters of each corps of sappers and miners—as instructional equipment—	2

The cost involved, which is estimated at Rs. 1,485 initial and 150 annual recurring, is debitable to the ordinary grant and l of account affected in the Army Estimates.

[2924 (D. G. O.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 270 of 1918.

DELHI,

19th March 1918.

Exemption from Indian income tax of all ranks serving in Persia during the war.

In reference to India Army Order No. 767 of 1917 under which the troops on active service in Persia are treated as forming part of an Indian Expeditionary Force for the purpose of exemption from Indian income tax of the salaries of all ranks serving in that country during the war, it has been decided that the exemption shall have effect from the commencement of the war instead of from the 17th April 1917.

[1193-P. (M. F. B.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 271 of 1918.

DELHI,

19th March 1918.

1. Scale of clothing and equipment for Railway staff and Inland Water Transport dockyard ratings recruited for service in Mesopotamia and East Africa, etc.

It has been decided that, with effect from the date of this :truction, issues of clothing and equipment to the Railway staff l Inland Water Transport dockyard ratings, who are recruited the Director of Railways, Basrah (Mesopotamia) and East rica, and for the Director of Inland Water Transport, shall be de in accordance with the scale laid down in the annexure to ecial India Army Order No. 1-S., dated the 5th February 1918, lieu of that authorised in Army Department letter No. 14840, ,ed the 3rd October 1917.

The expenditure is debitable to His Majesty's Government ·ough the Controller of War Accounts.

[30938 (Q. M. G.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 272 of 1918.

DELHI,
19th March 1918.

2. Rate of exchange for army remittances and allotments to England, through Government, from India and Mesopotamia.

With the approval of His Majesty's Secretary of State for lia, it has been decided that, with effect from the 1st October 17, the rate of exchange to be applied to army remittances l allotments to England through Government from India and esopotamia shall be 1*s.* 5*d.* instead of 1*s.* 4*d.* the rupee.

2. Broadly defined, the Secretary of State will increase the yments to recipients at home in the case of remittances or lotments which are expressed in rupees, while the account thorities in India and Mesopotamia will refund to senders the cess recoveries made in the case of remittances and allotments hich are expressed in sterling.

3. In respect of payments made on or after 1st October 917, the India Office will accordingly make the necessary adjust-ents at home in the case of—

(1) All remittances included in monthly rolls.

(2) All credits and other final balances of pay, etc., advised by Field Controllers for payment at home.

(3) All gratuities or other sums ordinarily payable at the official rate of exchange.

4. From the same date refunds, for excess recoveries, to enders in India and Mesopotamia and the necessary readjust-nents will be made by Controllers in respect of—

(1) Family allotments which will continue to be paid at home at the sterling rate, whether they are ... by the India Office or (in the case of ... by Regimental Paymasters

(273)

(2) Payments on account of accumulation of bala in the field in the nature of occasional allot

(3) Remittances for deposit in post office savings Secretary of State has directed that such should be treated as if fixed in sterling, as Post Office will not accept differences fractions of a shilling.

(4) Family allotments of officers. The Secret has decided that the sterling payments recipients will remain unaltered except so may be amended, and that account officer and the field should recredit officers with in rupees commencing with allotments for September 1917, paid in October 1917, make reduced recoveries from pay in fut Controller of Military Accounts may advi rates in individual cases.

5 The payments made under paragraph 4 of these i should be adjusted by reduction of the credits previously Instructions regarding accounts adjustment will issu

6. Further orders will be issued as to whether f 1s 5*d*. the rupee should be applied to the valr tc., in connection with the war.

All future recoveries, with effect from 1 Colonial Governments including Austral hould, however, be made at 1*s*. 5*d*. the rupe irect to Colonial Administrations should be The 1*s*. 5*d*. rate will, from 1st January 1918 the case of funds supplied to Immigration Agents African Protectorates.

[02005 (
B.

A. H. BINGLEY, *Major-General,*
Secretary to the Government of

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 274 of 1918.

DELHI,
19th March 1918.

Delegation of powers to the Director-General of Military Works, General Officers Commanding, Northern and Southern Commands, and General Officers Commanding, Divisions, to sanction plinth area estimates for temporary accommodation required in connexion with the war.

rmy Department letters No. 17621, dated the 28th Novem-
7, and No. 18817, dated the 21st December 1917, the
-General of Military Works has been authorised by the
ient of India to deal finally with the plinth area estimates
ding temporary accommodation required in connection with
nes specified in the Appendix hereto, provided the total
of each estimate does not exceed Rs. 50,000.

s it has been found ne[illegible]
many instances and [illegible]
her units and to alt[illegible]
or under construction, the schemes above referred to
e carried out exactly in accordance with the detailed pro-
originally framed.

has therefore been decided to group all these schemes and
[illegible] hereafter be approved by the
[illegible]ision of additional temporary
[illegible]cessitated by the war, the cost
[illegible]ty's Government, into two pro-
[illegible]tion of new lines for battalions
ôts, the expansion of old lines for battalions and
f Indian troops and with the provision of additional
y accommodation for the Indian personnel of Royal

Rates laid down in Appendix "A" attached to Army Depar
No. 853, dated 19th January 1917.

48 Artificers, *viz.* :—	
16 Masons	Rs 40, 32 and 25 per men 2nd and 3rd class masc carpenters, respectively.
16 Carpenters	
4 Smiths and fitters	Rs 40 and 25 per mensem for 2nd class blacksmiths, resp and Rs 30 to Rs. 50 for fitter.
8 Brick moulders	Rs. 30 per mensem.
4 Hammermen	Rs. 30, 24 and 15 for 1st, 2 3rd class hammermen, respecti
10 Clerks	1 Head clerk—in India Rs. mensem; overseas Rs. 100 p sem consolidated. 1 Second clerk—in India Rs. mensem; overseas Rs. 90 p sem consolidated. 8 Clerks—in India Rs. 60 p sem; overseas Rs. 80 per consolidated
1,024 Labourers	Rs 12 per mensem in India and per mensem out of India—*vid* Instruction (India) No. 64 of
56 Public followers, *viz.*:—	
16 Bhisties	Rs. 12 per mensem in India and per mensem out of India—*vid* Instruction (India) No 64 of 19
16 Cooks	Rs 10 per mensem — *vide* Ap "A" atta Army Dep letter No dated 19t uary 1917.
4 Durzis	Rs. 20 per mensem
4 Mochis	Rs 20 per mensem
16 Sweepers	Rs. 12 per mensem in India and

NOTE.—Where men have been engaged on mor to serve on them until the expiration

10 Private followers, *viz* :—	
For Officer Commanding	2
For Adjutant	1
For 4 Company Commanders	4 (one for each).
For Overseers	2
Cook	1

[56400 (A. G.). / E.

A. H. BINGLEY, *Major-General,*
Secretary to the Government of In

APPENDIX.

(1) Provision of temporary accommodation for additional Indian Infantry battalions referred to in Army Department letter No. 15838, dated the 20th October 1917.

(2) Provision of temporary accommodation for additional 21 Indian Infantry battalions referred to in Army Department letter No. 18821, dated the 21st December 1917.

(3) Provision of additional temporary accommodation in certain existing permanent lines occupied by Indian Infantry battalions referred to in Army Department letter No. 431, dated the 11th January 1918.

(4) Provision of additional accommodation in certain existing permanent lines occupied by Indian Infantry depôts referred to in Army Department letter No. 429, dated the 11th January 1918.

(5) Provision of additional temporary accommodation for the increased establishments of certain Indian Cavalry regiments and depôts referred to in Army Department letter No. 17765, dated the 30th November 1917.

(6) Provision of additional temporary accommodation for Royal Artillery depôts referred to in Army Department letter No 427, dated the 11th January 1918.

(7) Provision of additional temporary hospital accommodation for Indian troops so as to bring the total hospital accommodation at any station up to 5 per cent. of the authorized barrack accommodation sanctioned in Army Department letter No. 18817, dated the 21st December 1917.

Artillery depôts, and the other with the construction of temporary hospital accommodation for Indian troops so as to bring the total hospital accommodation at any station up to 5 per cent. of the authorized barrack accommodation.

4. As the powers delegated in the orders referred to in paragraph 1 are considered inadequate, it has now been decided that plinth area estimates for works falling within the scope of the two projects specified in paragraph 3 may be sanctioned by the following authorities up to the limits mentioned against each, which are exclusive of departmental charges :—

(a) By the Director-General of Military Works, up to a limit of Rs. 1,00,000.

(b) By the General Officers Commanding, Northern and Southern Commands, up to a limit of Rs. 50,000.

(c) By the General Officers Commanding Divisions, up to a limit of Rs. 25,000.

5. The General Officers Commanding, Commands and Divisions, shall submit to the Director-General of Military Works, for the information of the Government of India, a report in respect of each plinth area estimate sanctioned by them under paragraph 4 above, giving sufficient details to enable the Director-General of Military Works to determine whether the costs are reasonable.

[4903 (M. W. 2-A). / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 275 of 1918.

DELHI,
19th March 1918.

275. Establishment and organisation of a Porter Corps.

Sanction is accorded to the establishment and organisation of a Porter Corps for service overseas as detailed in the annexure.

[57345 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 275 of 1918.

DELHI,
19th March 1918.

5. Establishment and organisation of a Porter Corps.

Sanction is accorded to the establishment and organisation of a :ter Corps for service overseas as detailed in the annexure.

[57345 (A G.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 276 of 1918.

DELHI,

26th March 1918.

276. Modifications in the scale of train ration for British troops.

The following amendments are made to the statement* attached to Army Department letter No. 35591-1 (Q. M. G.-6), dated the 11th December 1917.

* *Vide* India Army Order No. 15, dated 1st January 1918.

(i) *After* "Bread" in column 1 *insert* the words "(or biscuit)".

(ii) Against the item "Firewood", for the existing entries in columns 3 and 5, *substitute* "1¾ (*b*)" and "2½ (*b*)", respectively, and connect with the following footnote:—

"(*b*) Includes ½lb for heating water required to clean cooking and other utensils used."

Delete the existing entry "¾" in column 4.

(iii) *Insert* as a new item :—

Washing soda	oz.	6 per 100 men.	2 per 100 men.	...	4 per 100 men.	...

[35591 (Q. M. G.). / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

Miscellaneous Equipment—(contd.).

4 Small hammers, Canterbury claw.
8 Mussacks.
8 Doles.
1,030 Log lines (for tying up kits).

Books, Forms and Stationery.

By indent from the prescribed authority as required.

Medical Equipment.

1 Field Surgical Haviesack.
1 „ Medical Companion.
1 „ „ Pannier, No. 1.
1 „ „ „ No. 2.
1,253 „ First dressings

Pensions.

Clerks and Headmen—Wound, injury and family pensions under paragraphs 1062 and 1073, Army Regulations, India, Volume I.

Naiks, porters, bhisties and sweepers—Wound and injury pensions under paragraph 1062, Army Regulations, India, Volume I, as for sepoys as regards conditions, but three quarter rates in all cases.

* Family pensions—Under Army Regulations, India, Volume I, paragraph 1074.

*Those entertained after 31st January 1918 will be governed by the provisions of Army Instruction (India) No. 64, dated 22nd January 1918.

Mess Allowance.

A mess allowance of Rs. 8 per mensem per British officer of the corps is authorised.

Advance of pay.

All ranks may be granted advances of pay as provided in current orders on the subject.

Special field allowance.

Only Indian officers are eligible for the special field allowance authorised in India Army Order No. 175 of 1916.

G.C P.I., Delhi—No. 14 I.A.I.—15-3-18.—4,000.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 278 of 1918.

DELHI,

26th March 1918.

278. **Discontinuance of the issue of shutters with tripod.**

It has been decided that when the existing stock of shutters with tripod is exhausted no more of these articles will be issued.

[$\frac{1632 \text{ (D. G. O.)}}{\text{E.}}$]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 279 of 1918.

DELHI,
26th March 1918.

/9. Substitution of 5-inch pattern heliograph for the 3-inch pattern.

It has been decided that when the existing stock of the 3-inch ıttern of heliograph is exhausted, no more will be issued, and ıat "Heliographs, 5-inch, mark V" (*vide* India List of Changes, aragraph 9083) will be issued in lieu for all services.

The additional expenditure involved will be debitable to the rdinary grant and head of account affected in the Army estimates.

[1632 (D. G. O.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 280 of 1918.

DELHI,

26th March 1918.

80. Rates of pay to be admitted to a British Service officer when attached to a Sapper and Miner unit.

It has been decided that when a British Service officer is ttached to a unit of Sappers and Miners, he shall receive the ndian rates of pay of rank and branch, *plus* staff pay at the ates laid down in paragraph 12 (*c*), Army Regulations, India, 'olume I. This decision has retrospective effect to cover any utstanding cases.

[0969 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 282 of 1918.

DELHI,

26th March 1918.

282. Issue of water pakhals to units in India by the Supply and Transport Corps.

It has been decided that, from the above date, water pakhals shall be supplied free by the State to those units of the Indian Army which have hitherto supplied their own vessels and been eligible to draw the upkeep allowances laid down in Army Regulations, India, Volume I, paragraph 243. All units of the arms of service mentioned in the above quoted paragraph, which are raised hereafter, will be provided by the Supply and Transport Corps with the number of pakhals which they are required to maintain.

2. Pakhals now in possession of units will be taken over by Government up to the authorised scale at a fixed rate of Rs. 40 per pair, if serviceable, and will be re-issued to units. To this end Boards will be convened under the orders of General Officers Commanding Divisions and Independent Brigades to examine the pakhals with units and decide how many are fit to be taken over by Government. Units not in possession of serviceable pakhals according to the authorised scale will be required to complete to that scale at their own expense. The number of ... is necessary for this purpose will be provided by S... rate of Rs. 40 per pair.

3. The allowances authorised under Army ... Volume I, paragraph 243, are abolished; pakhals ... will in future be handed over to the Supply and ... for replacement.

4. General Officers Commanding ... Brigades will intimate to the Director of ... quarters, Simla, the number of pakhals ... order to give effect to this decision.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 284 of 1918.

DELHI,

26th March 1918.

284. Method of calculating "average pay" and "average monthly pay" in connection with the grant of retiring, invalid, wound and injury pensions to sub-assistant surgeons of the Indian Subordinate Medical Department.

It has been decided that the principles of article 487, Civil Service Regulations, shall be followed in calchlating the "average pay" an[illegible] o in paragraphs 1044 (*a*) (*ii*) a [illegible] Volume I, respectively, in conne[illegible] invalid, wound and injury pensions to sub-assistant surgeons of the Indian Subordinate Medical Department.

[18645 (*D. M. S.-1*). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 285 of 1918.

DELHI,

20th March 1918.

Supply of Hindustani clothing to sick and wounded Indian troops and followers invalided from field forces engaged in frontier operations.

he provisions of Army Department let er No. 10607, (dated 7th September 1916, and I. A. O. No. 333 of 1916 relating to supply of Hindustani clothing to sick and wounded Indian s and followers invalided from overseas' forces are hereby nded to *all* sick and wounded Indian troops and followers lided from any field force and discharged from hospitals in a—

(a) to convalescent sections in India ;

(b) out of the service ;

(c) on sick leave ;

(d) to their units or depôts.

2. The expenditure is debitable to "War India—North-West ontier 1916."

[54143 (A, G.), / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of In

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 286 of 1918.

DELHI,
20th March 1918.

Revised scale and pay of temporary clerks employed in Nos. 1 to 9 Companies, Army Bearer Corps.

y Department letter No. 4243, the 21st March 1917, to the or, Medical Services in India.

y Department letter No. 17150, the 17th November 1917, to the l Officer Commanding, 9th derabad) Division.

n supersession of the scale of additional temporary clerks for Nos. 1 to 9 Companies, Army Bearer Corps, sanctioned in the marginally noted communications sanction is accorded to the employment of such clerks on the scale noted below. The pay of each additional clerk will be calculated as being Rs. 50 per mensem, he actual number of men to be employed in each Army r Corps Company Office, and their pay will be fixed by the ional Deputy or Assistant Director, Medical Services, concer- subject to the total monthly pay sanctioned for the office not exceeded.

Authorised strength.	Number of additional clerks.
From 1,000 to 1,999 men . . .	3
" 2,000 to 2,999 " . . .	4
" 3,000 to 3,999 " . . .	5
" 4,000 men and over . .	[illegible]

2. The expenditure involved is debitable to His Majesty's Government.

[737 (D. M. S.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 287 of 1918.

DELHI,

26th March 1918.

287. Increase in the number of non-commissioned officers authorised for Indian cavalry regiments and depots and of kot dafadars for Indian cavalry depots in consequence of increased establishments.

In supersession of the orders conveyed in the marginally noted Army Department letters, in so far as they refer to the increase in the number of non-commissioned officers for Indian cavalry regiments and depôts with increased establishments, sanction is accorded to the following revised scale:—

* No. H.-4022, dated the 5th April 1915.
*No. 10171, dated the 19th September 1916.
* No. 4708, dated the 2nd April 1917.
*No. 8201, dated the 4th June 1917.
*No. 18189, dated the 8th December 1917.

* Communicated to all General Officers Commanding Divisions, etc., and Controllers of Military Accounts.

(a) Silladar cavalry regiments—

2 extra lance dafadars and 1 dafadar for every 30 men in excess of the normal peace establishment of 625.

(b) Non-silladar cavalry regiments—

(i) 2 extra lance dafadars for the first 30 men over the normal peace establishment of 602.

(ii) 2 extra lance dafadars and 1 dafadar for every 30 men after that.

(c) Indian cavalry depôts—

2 extra lance dafadars and 1 dafadar for every 30 men in excess of 250.

2. The extra promotions, which will be temporary only for the period of the war, will be carried out as follows. Immediately 15 extra men are taken on the strength, 2 lance dafadars will be appointed, and for every additional 15 men subsequently taken on the strength, one promotion to dafadar will be made.

3. In lieu of the fixed establishment of 2 acting kot dafadars authorised for Indian cavalry depôts in section 7, Field Service Manuals Indian, Silladar and Non-Silladar Cavalry, one acting kot dafadar will be appointed for every 100 Indian ranks on the strength of depôts.

[57570 (A. G.). / E.]

A. H. BINGLEY, *Major-General*,

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 288 of 1918.

DELHI,
26th March 1918.

288. Pay admissible to temporary followers who are invalided to India from active service overseas.

As some misapprehension appears to exist on the above subject, the following instruction is published for guidance.

I.—Cases occurring before the 4th June 1917 (date of India Army Order No. 607 of 1917).

Under Army Department letter No. 12951, dated the 8th November 1916, and No. 7544, dated 23rd May 1917, the men should be treated as combatants, *i.e.*, they are entitled to full Indian pay (exclusive of batta and other allowances) for the period during which they were in hospital (or a convalescent section) after their return to India invalided from field service overseas, as well as for any period of leave not exceeding three months from the date of discharge from hospital or convalescent section.

II.—Cases occurring after the 4th June 1917.

The men should be treated as combatants, *i.e.*, they are entitled to full Indian pay (exclusive of batta and other allowances) for any period spent in hospital: the grant of sick or convalescent

leave is limited to those cases in which the conditions imposed by India Army Order No. 607 of 1917* are fulfilled: for such leave as may be granted under this order, full Indian pay (exclusive of batta and other allowances) will be admissible.

*This was confirmed by Army Department letter No. 16160, dated the 26th October 1917.

[6251 (O.-6) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of Indi

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 289 of 1918.

DELHI,
26th March 1918.

289. Kits of recruits of the Indian Army enlisted on or after 1st October 1917.

The following amendment is made to the annexure to Army Department letter No. 34078-1 (Q. M. G.-8-A.),* dated 21st September 1917 :—

*India Army Order No. 1190 of 1917.

Under the heading "Personal Clothing (Khaki)" *after* the item "Kullah, khaki" in column 1, *insert* "or pag".

[1055 (Q. M. G.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 290 of 1918.

DELHI,
26th March 1918.

Personnel of hospital ships and transports ineligible for the "1914 Star".

ith reference to Army Instruction, India, No. 137 of 1918, ing the award of the "1914 Star", intimation has been ed from the Right Hon'ble the Secretary of State for India the personnel of hospital ships and transports are not eligible e award of the decoration even if, in the discharge of their , they were obliged to land in France at the port of disembar-n.

[14524 (A. D.). / Medals.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 292 of 1918.

DELHI,
26th March 1918.

292. Periods of former service of mule transport personnel to reckon for pension.

It has been decided that pensionable establishments of the Mule Transport service serving under the terms laid down in Army Department letter No. 7575, dated the 24th May 1917, may reckon former periods of service for pension on the same conditions as those laid down for combatants in paragraph *1031*, Army Regulations, India, Volume I.

[326 (Q. M. G.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 293 of 1918.

DELHI,
26th March 1918.

93. Provision of handcuffs for transport units and mule depôts.

1. Sanction is accorded to the supply of two pairs of handcuffs to each transport unit and four pairs to each mule depôt.

2. The expenditure involved, *viz.*, Rs. 4,030, is debitable to the ordinary grant and head of account affected in the Army Estimates.

[87540 (Q. M. G.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 294 of 1918.

DELHI,
26th March 1918.

Rice money. Grant of compensation to men receiving pension as a special case.

t has been decided that the compensation for dearness of rice, orised for certain pensioners in Appendix VI (d), Army ılations, India, Volume I, is admissible although the pensioner have been granted pension as a special case.

[55526 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 295 of 1918.

DELHI,

20th March 1918.

295. Travelling allowances for the families of officers attending the staff school.

It has been decided that, as a special war measure, rail fare and road allowance in accordance with scale D, paragraph 27, Army Regulations, India, Volume X, shall be admissible to the families of officers attending the staff school, with retrospective effect to cover the present course which is being held at Saugor.

2. It has also been decided that the claims to travelling allowance for families of officers, which are outstanding in connection with the two courses held in Kashmir in 1917, shall be admitted as a special case.

3. The expenditure is debitable to the ordinary grant and head of account affected.

[18910 (G. S.). / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

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GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 296 of 1918.

DELHI,
26th March 1918.

296. Corrigendum.

The concluding paragraph of Army Instruction No. 190 of 1918 is cancelled and the following substituted :—

"Any chaplain who is in the regular salaried employ of Government availing himself of this advance, will be required to sign an undertaking that, should he revert to duty in India before the advance can be adjusted from the field allowance, he agrees to the adjustment of the balance from his ordinary emoluments subject to a maximum deduction of one-third of such emoluments.

Any unadjusted balance of this special advance in the case of a deceased chaplain or a chaplain not in the regular salaried employ of Government will be written off as a charge against the War Office.

[14605 (A. D.)- / D.]

A. H. BINGLEY, *Major General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 297 of 1918.

DELHI,

26th March 1918.

Revised scale of shoeingsmiths for mule and pony transport.

n supersession of the existing scales at which shoeingsmiths authorised for mule and pony transport, the following scales anctioned for all mules and ponies in India and with oversea es :—

(1) In India (including field service).

1 shoeingsmith.	for every 200 pack mules or fraction exceeding half that number; for every 100 draught mules or fraction exceeding half that number; for every 125 pack ponies or fraction exceeding half that number; for every 75 draught ponies or fraction exceeding half that number.

(2) With oversea forces.

1 shoeingsmith for every 200 transport mules or ponies or raction exceeding half that number.

2. The extra expenditure involved is estimated as follows :—

		Rs.
For mule and pony units in India	Initial . . .	8,000
	Recurring per annum .	35,400
For mule and pony units oversea	Initial . . .	5,110
	Recurring per annum .	20,300

The incidence of the expenditure will follow that of the units in which the men are employed.

[$\frac{97366 \text{ (Q. M. G.).}}{\text{D.}}$]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 298 of 1918.

DELHI,

20th March 1918.

8. Decision that the General Officers Commanding, Northern and Southern Commands, shall be responsible for all acting promotions in Indian Army units in their commands.

It has been decided with reference to India Army Orders ...s. 677 and 1352 of 1917 and 48 of 1918, Army Instructions ...dia) Nos. 94 and 97 of 1918 and Army Department letter ... 17538, dated the 26th November 1917, that in future the [illegible] Commands, [illegible] ...n Army units [illegible].

2. Acting promotions recommended should be submitted direct the Secretary to the Government of India, Army Department, ... publication in the *Gazette of India*.

3. Any acting promotions consequent on temporary appoint...ents which require publication in India Army Orders should not ...e made until such temporary appointments have been approved by His Excellency the Commander-in-Chief and published in India Army Orders.

4. The General Officers Commanding, 8th (Lucknow), 4th (Quetta) and Burma Divisions, will continue to submit their recommendations for acting promotion in Indian Army units to the Military Secretary to His Excellency the Commander-in-Chief as heretofore.

[7165 (M. B.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 299 of 1918.

DELHI,

26th March 1918.

9. Scale of firewood for sick, wounded and convalescent Indian troops and followers returning from field service.

The orders * in Army Department letter No. 11133, dated the 27th July 1917, regarding the grant of ration concessions to sick, wounded and convalescent troops and followers, are not intended to abrogate the scale of firewood admissible under the terms of Army Department letter No. H. 2751, dated the 12th April 1916.

* Communicated to General Officers Commanding under Quarter-Master General's No. 34197-1 (Q. M. G.-6-A.), dated the 6th August 1917.

† Communicated to General Officers Commanding under Quarter-master General's No. 26[illegible]3-1 (Q. M. G.-6), dated the 21st April 1916.

2. The statement attached to Army Department letter No. 11133, dated the 27th July 1917, should be amended as indicated below:—

Under the heading "Indian Troops and Followers", in the column of "Concessions", at the end of the second line *insert* "The allowance of firewood in the ration may be increased from 1½ lbs. to 3 lbs. per man per diem on the authority of the medical officer (Army Department No. H.-2751, dated 12th April 1916)".

[1071 (Q. M. G.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

(299)

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 300 of 1918.

DELHI,

26th March 1918.

300. Pay of civil officers, lady nurses and Unattached List ranks in the expeditionary forces while sick or wounded, who have been passed fit for general service and have been incapacitated a second time.

Army Department letter No H -5332, dated the 4th June 1915. India Army Order 616 of 1915. Army Department letter No. H.-3603, dated the 9th May 1916. India Army Order 243 of 1917. Army Department letter No. 13733, dated the 18th September 1917.

It has been decided with reference to the orders marginally noted that lady nurses of the Queen Alexandra's Military Nursing Service for India, all civil officers (*e.g.*, those on Accounts and Postal Staffs), all departmental officers with honorary rank and warrant and non-commissioned officers of the Indian Unattached List, including those officiating in Unattached List appointments, as well as members of the Assistant Surgeon Branch of the Indian Subordinate Medical Department who, having completed three months' leave on full pay as the result of wounds received or sickness contracted on field service, and having thereafter been passed fit for general service, are again incapacitated while in the field either through wounds or sickness (whether new or a recurrence of the former wound or disease), shall be eligible for a further period of three months' leave on full pay. The second or subsequent period of leave will be subject to the same conditions as the first period.

2. This concession will not, however, be admissible in the case of an individual who has had one period of three months on full

pay and who returns to duty *not in the field* if the wound bre out again or the disease recurs, or a fresh disease is contracted.

[68651 (A. G.) / B.]

A. H. BINGLEY, *Major-General*,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 301 of 1918.

DELHI,

26th March 1918.

1. Exchange compensation allowance in the case of officers appointed to the Indian Army or Indian Army Reserve of Officers under the terms of Army Order No. 206 of 1917.

With reference to India Army Order No. 1418 of 1917, it has n decided that exchange compensation allowance shall be continued at the rate of 6¼ per cent. to officers who have joined the Indian Army or Indian Army Reserve of Officers under the terms of Army Order No. 206 of 1917 in the *bonâ fide* belief that they would receive exchange compensation allowance at this rate. Steps are being taken to amend the Army Order referred to so as to make it clear that officers who join the Indian Army or Indian Army Reserve of Officers under the terms thereof after the date of the amendment will in the matter of exchange compensation allowance be placed on the same footing as other officers of the Indian Army.

[A. G.'s Case. / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 302 of 1918.

DELHI,

26th March 1918.

302. Recovery of income tax under the British Income Tax Regulations from the pay of British Service officers.

With reference to India Army Order No. 109 of 1915 conveying the decision of the Secretary of State for India that neither British nor Indian income tax should be recovered from the pay of officers serving with the Indian Expeditionary Forces during the present war, His Majesty's Government have now decided that income tax under the British Income Tax Regulations shall be deducted, with effect from the 1st April 1917, from the pay of British Service officers in Mesopotamia who were not on the Indian establishment at the outbreak of war and were posted from the Home establishment to an Indian Expeditionary Force in an appointment or unit not included in the Indian establishment at the outbreak of war.

2. Any doubts that may arise in any individual case, may be settled by the Field Controller of Military Accounts, Poona, in direct communication with the India Office, London. Similarly, any doubts as to the particular appointments or units to which the present decision should apply should be settled in communication with the Adjutant General in India.

[50945 (A. G.) / R.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 303 of 1918.

DELHI,
26th March 1918.

Formation of four Royal Artillery training depôts.

...nction is accorded to the formation of four Royal Artillery ...ng depôts for the purpose of training British ranks of Royal ...ery as draft reinforcements for the Mesopotamia Expedi...y Force.

The establishment for these training depôts will be as ...rs :—

	Per depôt.
...ritish officers—	
Major or Captain	1
Subalterns	2
	3
...ritish ranks—	
Battery Serjeant-Major	1
Battery Quartermaster Serjeant	1
Serjeants	6
Corporals	6
Bombardiers	6
Acting Bombardiers	4
Gunners	300
	324

	Per depôt
Followers—	
Pakhalis	4
Sweepers	6
Bullock drivers	2
	12
Animals—	
Bullocks	6
Conservancy establishment—	
Bhisti	1
Sweepers	2
Bildar (with cart)	1
	4
Vehicles—	
Guns with limbers and connected drill stores	6
Wagons with limbers and connected drill stores	6
	12

3. These depôts are intended for the training of gunners in standing gun drill, marching drill, etc., and will be located as follows :—

Jabbulpore	3
Neemuch	1

4. The sources of supply of personnel, animals and vehicles, respectively, will be as follows :—

British officers.—Convalescent officers are being sent from Home and will be posted by the Military Secretary to His Excellency the Commander-in-Chief.

British ranks—will be found from surpluses with units and depôts, under orders which will be issued from Army Headquarters.

Followers and conservancy establishment—will be specially entertained.

Bullocks—will be provided under the orders of the Quartermaster General in India.

Vehicles and guns—will, as far as possible, be provided from units and depôts, where additional guns are held on charge, and will be despatched together with the personnel now surplus in those units and depôts. The remainder will be supplied by the Ordnance Department.

5. The following extra duty pay and allowances are authorised for each depôt :—

(*i*) Contingent and office allowances—Rs. 500 initial and Rs. 50 per mensem.

(*ii*) *Extra duty pay for Pay Serjeant and Assistant Pay* Serjeant at Rs. 12 and Rs. 7-8-0, respectively, per mensem.

(*iii*) Extra duty pay for Assistant Quartermaster Serjeant at Rs. 7-8-0 per mensem.

(*iv*) Extra duty pay for Assistant Instructor in Physical Training at Rs. 5 per mensem.

(*v*) Extra duty pay for Assistant Instructor in Signalling at Rs. 8 per mensem.

(*vi*) Allowance for petty supplies at Rs. 100 per annum.

(*vii*) *An initial grant of Rs. 200 for the purchase of line* carts.

6. The expenditure involved is estimated at Rs. 10,519 initial and Rs. 1,05,733 recurring per annum approximately. The charges under "normal cost" heads are debitable to His Majesty's Government, other charges being adjusted under the ordinary grants and heads of account.

[58730 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 304 of 1918.

DELHI,

26th March 1918.

04. Opening of a sanitarium at Lebong for troops during the summer of 1918.

Sanction is accorded to the opening of a sanitarium for troops t Lebong during the summer of 1918, and to the employment of he following staff with rates of staff and extra-duty pay shown 'gainst each, *viz.* :—

	Staff pay.	Extra duty pay.
One Commandant	Rs. 200 per mensem.	...
One Station Staff Officer	Rs 200 per mensem.	...
One Acting Serjeant Major	...	Annas 6 per diem.
One Acting Quartermaster Serjeant	...	Annas 6 per diem.
One Acting Orderly Room Clerk	...	Annas 6 per diem.
One Pay Serjeant	...	Rs. 15 per mensem.
One Pay Clerk	...	Rs. 10 per mensem.
One Assistant Instructor of Physical Training	...	Annas 6 per diem
One Provost Serjeant	...	Rs. 10 per mensem.

Sanction will have effect from the date on which the officers and others selected for these appointments assume charge of their duties.

2. The expenditure is estimated for eight months, at Rs. 8,165 (exclusive of the charges on account of Indian establishments which are subject to variation) as shown in Annexure A, and will be debitable to the grant and head of account affected.

[02290 (A. G.) / A.]

A. H. BINGLEY, *Major-General*,
Secretary to the Government of India.

ANNEXURE A.

Estimate of expenditure on account of the re-opening of Lebong as a sanitarium during the summer of 1918, i.e., *8 months.*

	Rs	A.	P.
Commandant	1,600	0	0
Station Staff Officer	1,600	0	0
Acting Serjeant Major	91	15	0
„ Quartermaster Serjeant	91	15	0
„ Orderly Room Clerk	91	15	0
Pay Serjeant	120	0	0
„ Clerk	80	0	0
Assistant Instructor, Physical Training	91	15	0
Provost Serjeant	80	0	0
Allowances.			
Exchange compensation allowance, staff pay of Commandant	52	0	0
Office allowance, Station Staff Officer, at Rs. 50 per mensem	400	0	0
Section allowance at Rs. 20 per mensem per section	1,280	0	0
Library allowance	150	0	0
„ Lighting allowance at Rs. 3 per mensem	192	0	0
Postage and telegrams	500	0	0
Miscellaneous stores	480	0	0
Librarian at Rs. 8 per mensem	64	0	0
Officers' mess allowance at Rs. 150 per mensem	1,200	0	0
Indian establishments.			
As authorized by Army Tables, Miscellaneous Services, page 6, Section I, Table 4.			
Total	8,165	13	0

304]

S G.P.I., Delhi—No. 15 I. A. I—25-3-18—4,544

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 305 of 1918.

Simla,

2nd April 1918.

305. Incidence of the cost of stationery supplied in connection with recruiting

With reference to Army Department letter No 14608*, dated the 20th September 1917, it has been decided that the cost of stationery supplied to local Governments on behalf of war or Recruiting Boards shall be debited to His Majesty's Government through the Controller of War Accounts.

*Communicated with endorsement No. 14609, dated 20th September 1917, to Heads of Branches of Army Headquarters and Military Accounts Officers concerned and, with endorsement No. 3343, dated 14th March 1918 to Civil Accounts Officers.

[54949 (A. G.) / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA.)

No 306 of 1918

SIMLA,

2nd April 1918.

306. Emoluments during the period of transit for officers proceeding from England or from field service overseas to take up appointments in India

It has been decided that, as a special measure to meet the circumstances of the war, and with effect from the date of its commencement, the emoluments of officers during the period of transit from England, or from field service overseas, to an appointment in India shall be regulated as follows:—

(a) A British officer of the Indian Army proceeding from duty in England or on field service overseas will receive *the full pay of his substantive appointment until the* date of taking over his new appointment.

(b) A British service officer of regimental rank proceeding to regimental or staff duty in India will receive British regimental pay if he is not on the Indian Establishment; if he was on the Indian establishment prior to the outbreak of the war, he will receive Indian rates of pay.

(c) A British service officer holding a staff appointment proceeding to India for further staff employment will receive *pay at the rate drawn for the appointment that he is leaving* or that of the Indian appointment, whichever is less.

(d) A British service officer on half pay or retired pay will receive the pay of the Indian appointment from the date of embarkation, provided that at the date of selection he is in receipt of half pay or retired pay; if selected

while holding a staff appointment he will receive either the pay of his British appointment or that of thei. Indian appointment, whichever is less.

(c) An officer of the Indian Army on unemployed pay or retire pay will receive the pay of the appointment in In with effect from the twenty-second day after leavin England.

In all cases the officer in India who is relieved of his appoint ment will continue to receive the pay of the appointment hel until he hands over his duties.

2. The extra expenditure involved should be adjusted as indica below :—

(i) In case (a) the expenditure should be debited to His Majesty's Government and not to the Central Wa Controller.

(ii) The same procedure should be followed in case (') in respec of officers on the Indian establishment.

(iii) In other cases the pay charges for the period of transi should be adjusted in the same way as the pay charges of the appointment which the officer joins on arrival in India.

[47310 (A. G.-6) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 307 of 1918.

SIMLA,

2nd April 1918.

307. Disposal of men of the West African Conti gent, Inland Water Transport, invalided India.

It has been decided that Europeans of the West Afric Contingent, Inland Water Transport, when invalided to Ind and on discharge from hospital, shall be sent to the Ro Engineer Training Company (India), Bangalore. Natives West Africa will be sent to the Combined Labour Dep Dadar, Bombay.

[51601 (A. G.)]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of Ind

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 308 of 1918.

SIMLA,

2nd April 1918.

8 **Promotion of officers of the Indian Medical Service and grant of acting rank in the field to officers of that Service.**

With reference to Army Instruction (India) No 62 of 1918, ding the promotion of officers of the Indian Medical Service g the period of the war, the following decisions have been ed at with the approval of the Right Hon'ble the Secretary of for India :—

(i) Captains of the Indian Medical Service will, if recommended, receive accelerated promotion to the same extent as has already been granted to Captains in the Royal Army Medical Corps on account of the war. The extent of such acceleration will be notified in the *Gazette of India* in due course.

(ii) Acting rank will be granted to an officer of the Indian Medical Service, officiating in an appointment in the field, under the rules governing the grant of such rank in the Indian Army where applicable.

[11421 (A. D.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 309 of 1918.

SIMLA,

2nd April 1918.

309. Pay of Second Lieutenants granted commissions from the ranks of territorial units.

It has been decided that a Second Lieutenant commissioned from the ranks of a Territorial unit shall receive the pay of a Second-Lieutenant of his branch of the service, *plus* the special allowance authorised in Army Department letter No. H.-590, dated the 4th February 1916.

[68172 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 310 of 1918.

SIMLA,

2nd April 1918.

310. Travelling allowance for officers of the British and Indian Armies travelling outside Indian limits

It has been decided that officers of the British and Indian Armies travelling outside Indian limits shall draw travelling allowance under the "Regulations for the allowances of the Army." Field allowance at the rates laid down in paragraph 193 and subject to the conditions specified in paragraph 195 of the Allowance Regulations will be issuable to officers accommodated in tents and provided with rations. Colonial allowance is inadmissible in these cases.

2. Further instructions will be issued relating to journeys across France and Italy and to the case of warrant officers.

3. All outstanding cases should be disposed of in accordance with this decision.

[56837 (A.G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 311 of 1918.

SIMLA,
2nd April 1918.

311. Batta for permanent clerks of Imperial Service Transport Units who are in receipt of less than Rs. 45 per mensem.

It has been decided that, with effect from the 1st January 17, the provisions of Accounts Manual (War), paragraph 90, under ich the divisional administrative officer is empowered to fix the ld batta of clerks drawing less than Rs. 45 per mensem, shall be tended to the permanent attested clerks of Imperial Service ansport Units serving with the Indian Expeditionary Forces.

[53391 (A G. / B.)]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 312 of 1918.

SIMLA,

2nd April 1918.

312. Grant of the honorary rank of Major to retired Commissaries of Indian Army Departments and Senior Assistant Surgeons of the Indian Subordinate Medical Department.

With reference to Gazette of India, Army Department Notification No. 2027, dated the 1st December 1917, it has been decided that retired Commissaries of Indian Army Departments who are re-employed on the Indian establishment shall be eligible for the grant of the honorary rank of Major if duly recommended. This concession is also applicable to re-employed Senior Assistant Surgeons of the Indian Subordinate Medical Department who have completed three years' service in the rank of Captain.

[0970 (A.G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 313 of 1918.

SIMLA,

2nd April 1918.

313. Leave camps at Bombay and Karachi during leave season 1918 for Indian miscellaneous establishments. Staff of camps.

The following staff and establishment is authorised at each of the leave camps to be formed at Bombay and Karachi for the reception of Indian miscellaneous establishments during the leave season 1918 :—

2 Indian Officers 2 Indian Non-Commissioned Officers 2 Sepoys	To be pensioned or depot fit only.
One clerk	Pay at Rs. 50 per mensem.

2. The expenditure involved is debitable to His Majesty's Government.

[38093 (A. G.) / K]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 314 of 1918.

SIMLA,
2nd April 1918.

314. Increased scale of accommodation for operating theatre and X-ray blocks for hospitals in India.

It has been decided to provide an operating theatre and X-ray block for all hospitals for British and Indian troops, where such accommodation may be authorised, on the following scale :—

(*a*) Operating theatre	...	24½′ × 17′ × 16′
Sterilizing room	...	16′ × 11½′ × 16′
Dressing room	...	16′ × 11½′ × 16′
Anaesthetic room	...	18½′ × 11½′ × 16′
Preparation room	...	13½′ × 11½′ × 16′

with 8′ verandahs on three sides.

(*b*) X-ray room	...	22′ × 14½′ × 16′
Developing room	...	14′ × 10¾′ × 16′
Store room	...	14′ × 10¾′ × 16′

with 8′ verandahs on three sides.

(*c*) Engine and battery room ... 25′ × 16′ × 16′.

2. This scale supersedes that authorised in Army Regulations, India, Volume XII, Appendix V, item 146.

3. The scale now sanctioned will be followed only when considered necessary by the Director, Medical Services in India, in the construction of new operating and X-ray rooms, and should also form the basis for such additional accommodation in existing operating rooms as may be required. It is, however, not the intention that all existing operating rooms should be remodelled to bring them up to the sanctioned scale.

[5304 (M. W. 2-A) / C.]

A. H. BINGLEY, *Major-General,*

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 315 of 1918

SIMLA,
2nd April 1918.

315. Formation of temporary Recruiting Depots.

In order to stimulate recruiting and to enable units of the Indian Army to establish for themselves a connection with particular localities in which recruits are forthcoming sanction is accorded to the formation, where necessary, of temporary recruiting depots.

2. A monthly contingent allowance of Rs. 35 is authorised for each depot so formed.

3. All subsidiary instructions regarding the formation of depots will be issued by the Adjutant General in India.

[01307 (A. G.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 316 of 1918.

SIMLA,
2nd April 1918.

316. Grant of brevet promotion to officers holding temporary commissions.

It has been decided by the Army Council that brevet promotion in the terms of Article 61 of the Royal Warrant shall be applicable to officers holding temporary commissions in the British Service.

2. It is particularly requested that, when submitting recom- . . care should be taken to differentiate between the temporary substantive rank" held by an officer so recommended the higher acting or temporary rank such officer may be holdby virtue of the special appointment held by him.

3. Recommendations in all cases must be based on the "temporary substantive rank."

[02956 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 317 of 1918.

SIMLA,

2nd April 1918.

317. Light special troop trains composed of 9 vehicles.

For the period of the war the following Railway Administra- have agreed to run light special troop trains consisting of not ...ess than 9 vehicles, including two brake vans, and to waive, as ...as practicable, the present limit to the number of vehicles to be [illegible] to ordinary or mail trains as laid down in Appendix XI b), Army Regulations, India, Volume X :—

- East Indian Railway
- North Western Railway
- Great Indian Peninsula Railway
- Oudh and Rohilkhand Railway
- Bengal and North-Western Railway
- Udaipur-Chitorgarh Railway
- Rohilkhand and Kumaon Railway
- Dholpur-Bari Railway
- Bhavnagar State Railway
- Bengal-Dooars Railway Company Limited
- Guzerat Railway Company Limited
- Assam-Bengal Railway Company, Limited
- Gondal-Porbandar State Railway
- Jodhpur-Bikanir Railway

South Indian Railway.

Assam Railways and Trading Company Limited

Morvi Railway

Junagad State Railway

M. and S. M. Railway Company Limited

Bengal Provincial Railway Company Limited

Burma Railways Company Limited

Bombay, Baroda and Central India Railway

Eastern Bengal Railway

Bengal-Nagpur Railway

Jamnagar State Railway

Bombay Port Trust Railway

Ahmadpur-Katwa, Bankura-Damoodar River and Jessore-Jhenidah Railways

Mysore Railways

Nizam's Guaranteed State Railway

Jorhat State Railway.

2. The above concessions have effect from the 1st April 1917 subject to the proviso that if any Railways should submit bills for transactions prior to that date based on the revised procedure, the question should not be re-opened with them.

[$\frac{[illegible] (Q. M. G.).}{D.}$]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 318 of 1918.

SIMLA,

2nd April 1

318. Corrigendum.

The following amendments are made to Army Instr
(India) No. 45 of 1918 :—

In the heading *for* the words " 3rd Sappers and M
substitute " 2nd Queen Victoria's Own Sappe
Miners and 3rd Sappers and Miners."

In line 4 *for* " 3rd Sappers and Miners " *substitute*
Sappers and Miners and 2nd Sappers and
respectively."

[02413 (A G).
B.

A. H. BINGLEY, *Major-Gener*

Secretary to the Government of

GOVERNMENT OF INDIA

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No 310 of 1918

SIMLA,

2nd April 1918

Submission of equipment and other Ledgers by Officers Commanding British and Indian units proceeding overseas.

The attention of Officers Commanding British and Indian s proceeding overseas is drawn to paragraphs 874 and 876, y Regulations, India, Volume II, and they are reminded that y are responsible for the submission of their equipment and er ledgers, referred to in paragraph 874, and lists of equipment India Army Form Z.-2108, referred to in paragraph 875 *ibid*, ore the units leave India.

[6068 (D. G. O.) / E.]

A. H. BINGLEY, *Major-General*,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No 320 of 1918.

SIMLA,

2nd April 1918.

320. Nomination of Central Authorities to check expenditure sanctioned by Divisional and Brigade Commanders under their enhanced financial powers.

With reference to paragraph 3 of Army Department letter No. 571-1 (A.D.), dated the 21st November 1917, and paragraph 4 of my Department letter No 14841 2 (A D.), dated the 8th February 1918, it has been decided that, as Army, Divisional and Independent Brigade Commanders may sanction both "Army" and "Military Works" expenditure against the allotments for unforeseen expenditure placed at their disposal, and as the expenditure sanctioned by Army Commanders may be incurred in any of the Divisions, etc., under their command, central authorities will be nominated whose duty it will be to see that the sanctions accorded from time to time do not, in the aggregate, exceed the fixed allotments.

2. These authorities will be as detailed below :—

Sanctioning authority.	Annual limit of sanction to unforeseen expenditure.	Officers whose duty it will be to see that the limit is not exceeded.
	Rs.	
General Officer Commanding, Northern Command.	50,000	Controller of Military Accounts, 2nd (Rawalpindi) Division.
General Officer Commanding, Southern Command.	50,000	Controller of Military Accounts, 6th (Poona) Division.
General Officer Commanding a Division.	15,000	Controller of Military Accounts of the particular Division concerned.
General Officer Commanding an Independent Brigade.	7,500	Controller of Military Accounts of the Division in audit control of the Brigade.

3. (i) Each Army, Divisional and Independent Brigade Commander should communicate to the responsible Controller as indicated above a copy of each of his decisions sanctioning expenditure whether chargeable to the Army or to the Military Works Estimates, against the grant at his disposal, and should, in addition, send a copy to the particular audit officer concerned, i.e., the Divisional Controller of Military Accounts, the Controller of Military Supply Accounts, or the Examiner of Accounts Military Works as the case may be.

(ii) A copy of each sanction accorded, when it involves expenditure under the *Army* Estimates, should also be communicated by the sanctioning authority to the Controller of Military Accounts, 3rd (Lahore) Division who will transfer the necessary funds from the "Reserve with the Government of India" under grant 14 of those estimates to the Controller concerned, on the latter's application.

(iii) Copies of sanctions authorizing expenditure under "Military Works" should also be sent to the Director General of Military Works, who will arrange for the issue of the orders of Government transferring funds from "Grant 14—Reserve with the Government of India" to "47—Military Works"

[14341 (A D) / 18]

(Sd) A H BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No 321 of 1918

SIMLA,

2nd April 1918.

321. Grant of extra leave to temporary lady nurses.

It has been decided that temporary nurses should not in future, in any circumstances, be granted leave, either with or without pay, by General Officers Commanding Divisions or Independent Brigades, or officers subordinate to them, in excess of that admissible under existing orders*.

*Army Department letter No. 15291, dated 11th October 1917.

[1300 (D M.S) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India

1AI—1900—30-3-18—GCBI Simla

GOVERNMENT OF INDIA

ARMY DEPARTMENT

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ARMY INSTRUCTION (INDIA)

No. 322 of 1918.

SIMLA,

9th April 1918.

322. Abbreviated Telegraphic Address.

The following abbreviated telegraphic address has been registered and should be used in all telegraphic communications —

Full address.	Abbreviated address.
Chief Lady Superintendent, Army Headquarters, Medical Branch, Simla.	"Chief Ladysup."

[1086 (D.M.S.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 323 of 1918.

SIMLA,
[illegible] April 1918.

323. Grant of free passage to officers of the Indian Army Reserve of Officers on resignation of commission or on removal from the service.

It has been [illegible] that an officer [illegible] the Indian Army Reserve [illegible] himself and his family in the following [illegible]:—

a. When [illegible] in circumstances beyond [illegible] place of residence in India.

[illegible] removed or permitted to [illegible] and unable to pay [illegible] recruited in that country, or [illegible] if recruited there.

In cases [illegible] passage money) will be granted at the [illegible] the Commander-in-Chief and the class of passage [illegible] according to the merits of the case.

Army Regulations, India, Volume X, paragraph 91, will be amended accordingly.

[$\frac{35443 \text{ (Q. M. G.)}}{\text{[illegible]}}$]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 324 of 1918.

SIMLA,

9th April 1918.

324. Issue of train rations to officers on payment.

British officers travelling by train are permitted to draw on cash payment train rations at the scales in force for British troops. Payment issues made on this authority will be confined to complete rations and will be charged for at the rate of annas twelve per ration.

2. The cost of rations drawn on payment will be recovered by the senior officer placed in charge of the train and remitted to the nearest treasury at destination for credit to the Divisional Disbursing Officer of the Division in which the treasury is located.

[1183 (Q.M.G.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 325 of 1918.

SIMLA,
9th April 1918.

325. Signalling Allowance to Signal Officers.

It has been decided that the signalling allowance of Rs. 100 per mensem authorised in the Note to paragraph 12 (c), Army Regulations, India, Volume I, for subaltern officers serving with Divisional Signal Companies, shall also be admissible, with effect from the commencement of the war to all officers serving in the Indian Signal Service. This allowance will not be drawn by an officer holding an appointment in the Signal Service which in itself entitles him to staff pay in addition to the pay and allowances of his substantive appointment.

[57718 (A. 2.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 326 of 1918.

SIMLA,

9th April 1918.

326. Pay Havildar's allowances at Depots of Indian Infantry on Field Service.

It has been decided that paragraph 1022 (*iii*), Army Regulations, India, Volume I, which authorises 8 pay havildars on Rs. 5 per mensem extra duty pay each, for Indian Infantry regiments on field service, applies equally to all such regiments irrespective of the Presidency to which they formerly belonged. This allowance is accordingly admissible to pay havildars of Carnatic infantry regiments on field service.

[55535 (A.G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

N. 327 of 1918.

SIMLA,

9th April 1918.

327. Educational Establishment of Indian Mountain Artillery.

The Government of India sanction, as a temporary measure for the period of the War, the employment of a vernacular schoolmaster with extra duty pay of Rs. 7 per mensem for each battery of Mountain Artillery located singly at stations other than Abbottabad, Kohat and Dehra Dun.

[(01324 A.G.) / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No 328 of 1918.

SIMLA,

9th April 1918.

328. Appointment of Company Officers for Convalescent Sections in India including Enteric and Malaria Convalescent Depots.

It has been decided that the orders in Army Department letter No 12244, dated the 27th October 1916, regarding the appointment of company officers to Convalescent Sections in India are applicable to all Convalescent Sections including Enteric and Malaria Convalescent Depots.

[02832 (A G.).
B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 329 of 1918.

SIMLA,

9th April 1918.

329. Detention allowance for officers of the British Service when travelling on duty by rail with detachments of Indian troops.

It has been decided, as a war measure, that the provisions of paragraph 260 (b), Army Regulations, India, Volume I, shall be applicable to officers of the British Service, below the rank of field officer, while travelling on duty by rail with detachments of Indian troops.

[02319 (A. O.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 330 of 1918.

SIMLA,

9th April 1918.

330. Provision of "Deflector cartridge case, Lewis gun ·303 inch, Bag No. 2."

Sanction is accorded to the issue, as Mobilisation equipments of "Deflector cartridge case, Lewis gun ·303 inch, Bag No. 2" on the scale of one for each Lewis gun, to all Infantry battalions in the Field Army and Frontier Brigades, and to such battalions allotted to the Peshawar and Baluchistan internal security areas as are in possession of Lewis guns.

The cost involved, which is estimated at Rs. 5,385 initial, is debitable to the grant and head of account affected in the Army estimates

[7757 (D. G. O.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 332 of 1918.

SIMLA,

9th April 1918.

332. Provision of "Deflector cartridge case, Lewis gun ·303 inch, Bag No. 2."

Sanction is accorded to the issue of "Deflector cartridge case, Lewis gun ·303 inch, Bag No. 2" to Schools of Musketry on the scale of one for each Lewis gun.

The cost involved, which is estimated at Rs. 175 initial, and Rs. 30 recurring, is debitable to the grant and head of account affected in the Army estimates.

[7757 (D.G. O.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 334 of 1918.

SIMLA,

9th April 1918.

334. Prohibition against the grant of free passage to the families of candidates who proceed to the United Kingdom to obtain temporary commissions in the Royal Army Medical Corps.

Intimation has been received from the Right Hon'ble the Secretary of State for India that debits have been included in Divisional accounts current schedules for land and sea transport charges for the families of officers sent Home on temporary appointment to the Royal Army Medical Corps.

It is notified for the information and guidance of all concerned that the War Office have decided that when candidates proceed to the United Kingdom to obtain temporary commissions in the Royal Army Medical Corps, no responsibility on account of passages for their families by sea or land should be accepted and that such charges should not be incurred in India in future.

[1359 (Q.M.G.). / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 336 of 1918.

SIMLA,

9th April 1918.

36. Military works equipment for Indian troops' hospitals, Indian troops' war, frontier and specially equipped depôt hospitals.

anction is accorded to the provision on the scale shown in the endix of Military Works equipment for :—

(i) Indian troops' hospitals.

(ii) Indian troops' war, frontier and specially equipped depôt hospitals.

. The revised scale for (i) above is to be regarded as temporarily ereding that laid down in Army Tables, Medical, Section IV, le XIX, whilst the new scale for (ii) is in supersession of that horised *in Army Department letter No. 15235, dated 28th* ember 1916.

[4661 (M.W.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

[Item]em.	Name of article.	Scale.	Remarks.
23	Stands, ghurra for 8 ..	1 per 50 beds.	
24	Tables, 5'×2'10" ...	1 per Office.	
25	Tables, dispensing ...	1 per Hospital	
26	Tables, dissecting ...	1 per mortuary.	
27	Tables, prescribing ...	1 per Hospital.	
28	Trays, dressing ...	1 per 50 beds.	
29	Washhand stands ..	1 per surgery.	Fittings to be supplied by S. and T. Corps.
30	Mosquito poles and frames ..	1 per bed	Except whe[n] wires are use[d] to support mos[]quito nets.

Notes.—1 Bedsteads of iron, either Broome, Reid or Lawson Tate, are to b[e] provided in all permanent Indian troops' hospitals. In temporar[y] additions to these hospitals only *Newar* Cots are to be provided.

2. Where an article is entered at so many per so many beds it is to b[e] understood that that number is to be given for any fraction of th[e] number of beds.

[32]

Item.	Name of article.	Scale.	REMARKS.
20	Punkah fringes and punkah ropes.	As required.	
21	Racks, towel	1 per surgery.	
22	Receptacles, filth ...	As required.	
23	" urinary ...	Ditto.	
24	Scoops, dry earth ...	Ditto ...	Only where dry earth closets are used.
25	Scrapers, dry earth ..	Ditto.	Ditto.
26	Screens, movable ...	1 per 25 beds.	
27	Sieves, dry earth ..	As required.	Only where dry earth closets are used.
28	Stands, surahi for 2 ..	1 per surgery. ...	If piped water is not laid on.
29	Stands, ghurra for 8 ..	1 per ward.	
30	Tables, 5'×2'10" ...	1 per office and 1 per clerk.	
31	Tables, bedside ...	1 per bed. ...	These are to be of cheap type not of type plan No. 66-H.F.
32	Tables, small, on wheels for dressing.	1 per ward. ...	See also item 39.
33	Tables, dispensing ...	1 per Hospital.	
34	Tables, dissecting ...	1 per mortuary.	
35	Tables, iron trestle 5'×2' 6"	1 per 20 beds.	
36	Tables, invalid ...	1 per 7 beds.	
37	Tables, prescribing ...	1 per Hospital.	
38	Tables, ward, small ...	1 per 50 beds.	
39	Trays, dressing ...	1 per 50 beds. ...	See also item 32.

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 337 of 1918.

SIMLA,

9th April 1918.

337. Provision of technical publications for the use of Veterinary Assistants of the Army Remount Department employed in circles.

Sanction is accorded to the purchase of 29 sets of the following publications for the use of the Veterinary Assistants of the Army Remount Department employed in the marginally noted circles. They should be issued in the proportion of one set for every seven Veterinary Assistants, and be maintained at a Central Lending Library at the headquarters of each circle :—

Jhelum Canal Colony
Rawalpindi.
Lahore.
Chenab Canal Colony.
United Provinces.
Baluchistan.

Titles of publications	Cost. Rs.	A.	P.
1. Equine Medicine by Colonel Pease	8	0	0
2. Equine Surgery by Colonel Pease	8	8	0
3. Soundness and Age by Colonel Pease	2	8	0
4. Veterinary Anatomy by Mehtab Shah	9	8	0
5. Materia Medica by Ghulam Rasul	6	8	0
6. Veterinary Physiology by Mehtab Shah	4	8	0
7. The Text Book of Histology by Haqnawaz Khan ...	5	8	0
Total ...	45	0	0

Item.	Name of article.	Scale	Remarks.
40	Washhandstands ...	1 per surgery. ...	Fittings to be supplied by S. and T. Corps.
41	Mosquito poles and frames...	As required. ...	Except when wires are used to support mosquito nets.

NOTES.—1. As regards bedsteads in Indian War Hospitals, see Director-General of Military Works Circular Memorandum No. 2188-I (M.W.-3-*b*), dated 23rd June 1917.

2. *Where an article is entered* at so many *per so many beds it is* to be understood that that number is to be given for any fraction of that number of beds.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 337 of 1918.

SIMLA,

9th April 1918

337. Provision of technical publications for the use of Veterinary Assistants of the Army Remount Department employed in circles.

Jhelum Canal Colony.
Rawalpindi.
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Titles of publications	Cost.		
	Rs.	A.	P.
1. Equine Medicine by Colonel Pease	8	0	0
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4. Veterinary Anatomy by Mehtab Shah	9	8	0
5. Materia Medica by Ghulam Rasul	6	8	0
6. Veterinary Physiology by Mehtab Shah	4	8	0
7. The Text Book of Histology by Haqnawaz Khan ...	5	8	0
Total ...	45	0	0

2. The total cost involved in the proposal, amounting to Rs. 1,305, which will be incurred during the current financial year, should be met from the grant and head of account affected.

[1034 (Q.M.G.) / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 338 of 1918.

SIMLA,

9th April 1918.

338. Increase of pay for British soldiers.

The following was published as a Gazette of India Extraordinary on the 1st April 1918 :—

No. 644.—The Governor General in Council is pleased to announce that the Right Honourable the Secretary of State for India has approved an increase of pay for British soldiers in India as follows :—

1. From the 29th September 1917 and for the remaining period of the present war, the qualifying period for the grant of proficiency pay as required by Army Regulations, India, Volume I, shall be reduced from 2 years to 6 months, subject, in the case of those enlisted as boys, to the additional modification that they must have attained the age of 18½ years instead of 20 years as hitherto, and proficiency pay shall be issued to all soldiers eligible for that emolument who on or after the 29th September 1917 have fulfilled the conditions for the grant of proficiency pay as now modified.

2. In the case of soldiers who are in receipt of the rates of pay laid down in Army Regulations, India, Volume I, the issue of separation allowance shall, from the 29th September 1917, and for the remaining period of the present war, cease to be dependent on the soldier making an allotment of his pay.

Where the wife or dependant of such a soldier was in receipt of separation allowance on the 2nd December 1917, or subsequently becomes entitled to receive an allowance with effect from that

or an earlier date, the whole sum which the soldier was allotting on the 2nd December 1917 (including any allotment in excess of that prescribed in the Appendix to the Regulations, issued o 27th October 1914 under the Royal Warrant of the 23rd Sep tember 1914) up to a total of 10*d.* a day for a soldier of th rank of serjeant, or higher rank, or 6*d.* for a soldier below the ran of serjeant shall be issued from public funds as separatic allowance, and shall not be deducted from the soldier's pay.

Where the wife or dependant of such a soldier becomes entit ed to separation allowance with effect from the 3rd Decemb 1917 or a subsequent date, the usual procedure for assessing tl allowance shall be followed and the whole amount to which tl payee is entitled shall be issued from public funds as separati allowance; but in these cases any allotment voluntarily made l the soldier will be a charge against his pay.

3. From the 29th September 1917 and for the remainin period of the present war, the sum of 1*d.* per day War Pay respect of each complete year of service with the Colours, render since the commencement of the present war, shall be granted all soldiers, except soldiers of the Non-Combatant Corps, w are in receipt of sterling rates of pay laid down in Army Regul tions, India, Volume I.

Service within the meaning of this paragraph forfeited f desertion or fraudulent enlistment shall not be allowed to cou towards War Pay unless restored in accordance with the King Regulations and Orders for the Army. Any period of pe servitude, or of imprisonment or detention exceeding 28 da undergone by the soldier, and any continuous period of absen without leave exceeding 28 days, will not be reckoned as serv for the purpose of the grant

4. From the 29th September 1917, and for the remaini period of the present war, the sterling rates of pay laid down Army Regulations, India, Volume I, for warrant officers a non-commissioned officers down to and including the ranks corporal, bombardier, or 2nd corporal, Cavalry of the Line, Ro Horse and Field Artillery, Royal Garrison Artillery and Infantry of the Line, shall be increased by the sum of 3*d.* a day.

5. From 29th September 1917, and for the remaining period of the present war, in the case of any soldier below the rank of serjeant, with the exception of boys, of soldiers of the Non-Combatant Corps, and of soldiers employed in agriculture, or otherwise under conditions which bring their earnings up to civil rates of wages, when for any day on which he is entitled to receive

his full emoluments his total pay assessed in the manner here-inafter prescribed does not amount to the minimum sum herein laid down for his rank or appointment, there shall be added for that day such amount as will increase the pay so assessed to the minimum sum herein laid down for his rank or appointment.

In assessing the total pay for this purpose there shall be taken into account, in addition to regimental pay (as increased by paragraph 4 above, any proficiency pay, service pay, engineer or corps pay, to which the soldier may be entitled; but if entitled to Class I proficiency pay or Class I service pay the minimum in his case shall be increased by 3*d*

The minimum sum shall be at the following rates, according to the soldier's rank or appointment.—

	s.	*d.*
Trooper, gunner, driver, sapper, pioneer (R.E.), private	1	6
Paid lance-corporal or paid acting bombardier ..	1	9
Corporal or 2nd corporal	2	0

6. All warrant officers, non-commissioned officers and men now serving who, having, on or since 4th August 1914, completed 22 years' service on their current attestation, including the extra year under Section 87 (1) of the Army Act, have been retained in the Service under the provisions of the Military Service Act, 1916 (Session 2), or have voluntarily continued in the service during the war, may elect within 3 months from the date of this notification to draw with retrospective effect the pension to which they would have been entitled by service if they had been discharged on completing 22 years' service. A soldier who had more than 22 years' service on 4th August 1914 and who elects to draw pension under this notification may have his pension assessed and paid with arrears as though he had been discharged on 4th August 1914, but not sooner.

Similarly, soldiers who now have less than 22 years' service, may if they complete 22 years' service during the war, elect to draw service pension from the date of completion of 22 years' service.

The right to elect to draw service pension from the completion of 22 or more years' service must be exercised within 3 months of the date of this notification, or of the completion of 22 years' service, whichever is the later date; the election once

made will be final, and the pension granted will not under any circumstances be subsequently increased; though, if disabled, the soldier will be eligible for a disability pension in addition on the usual conditions.

A soldier who elects to draw his pension under this notification will be regarded as having terminated his existing engagement with effect from the date from which pension becomes issuable, and as having entered into a new engagement terminable at the end of the war. A soldier who does not claim his pension as above will continue to serve in the Army under the usual conditions providing for the continuance of men of such service, counting his service towards increase of pension.

7. From the 20th September 1917 and for the remaining period of the present war, no stoppage shall be made from the pay of any soldier in respect of his admission to hospital unless the disability is due to an offence under the Army Act or to the soldier's own fault.

The following subsidiary instructions and explanations are notified for general information :—

(1) The grant of proficiency pay, Class II (or in the case of a soldier holding the rank of serjeant or higher rank Class I), will in future be automatic on the soldier eligible for that emolument completing 6 months' unforfeited service, or, in the case of a boy, having attained the age of 18½ years in addition.

Divisional Disbursing Officers will therefore begin to credit the accounts of all men eligible as soon as they have completed the necessary service, unless an entry appears in Part II. Orders to the contrary. Commanding Officers on whom the duty of ascertaining the soldier's efficiency devolves, should take steps, in the case of any man who is considered unqualified, to make an immediate announcement in Part II. Orders when the soldier has completed the period of qualifying service. The pay of the soldier will not however be reduced below the minimum laid down for his rank in consequence of such an announcement [see paragraph (4) below].

Except with regard to the qualifying period of service the conditions and procedure for the grant of proficiency pay, Class I., will remain as heretofore.

(2) Paragraph 2 of the Notification does not apply to cases where allotment only and no separation allowance is being paid except in the case of an allotment made to secure a special separation allowance from the funds administered by the Special Grants Committee of the Ministry of Pensions, in regard to which separate instructions are being issued by the Ministry. Stoppages in respect of separated wives or illegitimate children will be made as hitherto from the pay of soldiers as required by Sections 138 and 145 of the Army Act, and the benefit granted by paragraph 2 is therefore not applicable to cases in which separation allowance is being issued under paragraph 55 (c) or 75 (b) of the Separation Allowance Regulations, 1916, where there is an Order of Court. The paragraph does, however, apply to all other cases where separation allowance is being issued with allotment, including allotments for motherless children actually in payment or authorized by the soldier on or before the 2nd December 1917.

(3) It will be observed that the grants under paragraphs 2, 3, 4 and 5 of the Notification do not apply to men in receipt of special rates of pay, *e.g.*, men enlisted under the conditions of Army Order 283 of 1914, or under subsequent instructions at the rates of pay laid down therein, or similar rates granted under the Royal Warrant published in Army Order 282 of 1914.

Men in receipt of special rates of pay who for any reason are brought on to ordinary rates of pay will be entitled to the benefits of the Notification from the date of commencing to draw ordinary rates. Subject to the provisions of the Notification their whole service, whether at special or ordinary rates, will reckon for the purpose of the benefits.

Any man in receipt of special rates of pay will have the option of drawing ordinary rates and the benefits of the Notification in lieu of his special rate. Such election when made will be final, and will be recorded on his documents. He will not be entitled to re-elect his special rate at any subsequent date.

No arrears of the grant under paragraph 3 of the Notification will be paid for the period before 29th September, 1917, but all service, as defined in the Notification, since the commencement of the war (whether on a current or a previous attestation) will be allowed to reckon in calculating the addition to the soldier's pay.

(4) In assessing the pay of the soldier for the purpose of deciding whether an addition under paragraph 5 of the Notification is necessary, it should be noted that the emoluments to be taken in

account for soldiers serving at the rates of pay of arms which earn proficiency pay are :—Regimental pay, proficiency pay, and service pay.

For soldiers serving at Royal Engineer rates :—Regimental pay, engineer pay and service pay if entitled thereto.

For soldiers serving at the rate of arms which earn corps pay :—Regimental pay, corps pay and service pay if entitled thereto.

The following classes of pay will not be taken into account :—

(a) The War Pay of 1*d.* for each year of war service under paragraph 3 of Notification.

(b) Working pay under paragraphs 664 to 671, Army Regulations, India, Volume I.

(c) Additional pay.

(d) Messing allowance admissible under paragraph 500 Army Regulations, India, Volume I.

It follows that the minimum rate for the Cavalry, Artillery, Infantry and other proficiency pay-earning arms will be :—

For soldiers entitled to proficiency or service pay Class II, or to no proficiency or service pay—

Private, 1*s.* 6*d.*; paid Lance-corporal or paid acting bombardier, 1*s.* 9*d.*

For soldiers entitled to proficiency pay, Class I, or service pay, Class I, whether at 6*d.* or 7*d.*

Private 1*s.* 9*d.*; paid lance-corporal or paid acting bombardier 2*s.*

A corporal of Infantry of the Line with less than 6 months' service and therefore not entitled to proficiency pay will get 2*s.*; if in receipt of proficiency pay, Class II, 2*s.* 2*d.*; Class I, 2*s.* 5*d.*

The grant under paragraph 6 will only be drawn if the soldier is entitled to his full emoluments and consequently will not be issuable if the soldier is subject to hospital stoppages (as now modified) or to any forfeiture or reduction of his pay under the following provisions of Army Regulations, India, Volume I :—

(a) Any forfeiture of service pay under paragraph 492-A.

(b) Any forfeiture of service pay under paragraph 13 of Appendix XV.

(c) Any forfeiture or reduction of engineer or corps pay under paragraph 675, clauses (b), (c), (d) and (f).

It is not intended that the soldier shall forfeit this benefit for lack of efficiency other than as provided above. A soldier's pay

l not therefore be reduced below the minimum in consequence he forfeiture or reduction of proficiency pay under paragraph ?-B., Army Regulations, India, Volume I.

For the purpose of paragraph 5 a soldier will not be regard- is being in receipt of less than his full emoluments by reason of ppages of pay under Section 138 (excepting those under para- phs (1) and (2) thereof) or under Section 145 of the Army Act.

(5) Detailed instructions as to the method of exercising the ion of drawing service pension, and as to the system of payment pensions, will be issued at a later date.

(6) Hospital stoppages will be maintained as at present laid wn in the case of any soldier who is admitted to hospital as the ult of alcoholism or venereal disease, as certified by the medical icer, or other cause, notified in Part II. Orders, as due to the dier's own fault.

(7) The increased rate of pay which, under the Notification ll be admissible for any soldier from the 29th September 1917, ll be notified by the Divisional Disbursing Officer to the soldier's mmanding Officer The notification will be made without delay.

The increased rates of pay granted by the Notification will not inserted in Army Book 64, except on the Divisional Disbursing ficers authority, but, pending receipt of the authority, Company, ., Commanders may make such reasonable advances of cash as e increased net rates may justify, having regard to the provision paragraph (2) of these subsidiary instructions relating to the ntinuance of compulsory stoppages.

(8) The special allowance of three annas per diem admissible the case of British Soldiers who are not drawing field service tions will be continued. This allowance should not be taken to account for the purpose of deciding whether the pay of a ldier is to be increased under paragraph 5 of the Notification.

(9) The orders regarding compulsory allotments, hospital oppages, and pensions under paragraph 6 of the Notification for lose serving for pension under the Royal Warrant apply also to embers of the Indian Unattached List and Indian Subordinate ledical Department including those receiving consolidated rates pay.

[54819 (A. G.). / R.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 339 of 1918.

SIMLA,

9th April 1918.

339. Provision of funds in the Army Estimates for 1918-19 for the completion of the Schedule measure "Rearmament of Artillery."

With reference to Army Department letter No. 5243,* dated the 14th April 1917, a sum of Rs. 7,69,500 has been provided in the Army Estimates of 1918-19 on account of the Schedule measure† "Rearmament of Artillery."

2. The Home expenditure of Rs. 6,85,500 includes the following amounts :—

(1) Rs. 6,10,500 carried forward by the Secretary of State from his 1917-18 estimates to meet the liabilities of past years ; and

(2) Rs. 75,000 for Home stores required by Indian Ordnance Factories during 1918-19.

*[illegible] No. [illegible]244, dated [illegible]iser, Milit[illegible]my Head- [illegible] Accounts [illegible]concerned.

	Initial. Rs
Home	6,85,500
India	84,000
Total ...	7,69,500

†Item 3 of Schedule for 1918-19.

3. The Indian expenditure of Rs. 84,000 is the estimated cost of local supply stores and of labour in India and is allocated, as shown below :—

Grant 10—Ordnance Establishments, Supplies and Services,—

Extra temporary artificers and others—

		Rs.
Gun and Shell Factory, Cossipore	... ...	34,700
Ammunition Factory, Dum Dum	... ...	1,400
Gun Carriage Factory, Jubbulpore	... ...	200
Local Supply of Stores for factories—		
Gun and Shell Factory, Cossipore	... ...	46,000
Ammunition Factory, Dum Dum	... ...	1,200
Gun Carriage Factory, Jubbulpore	... ...	500
Total	...	84,000

[510-D. (D. G. O.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA

No. 340 of 1918.

SIMLA,

9th April 1918.

340. Further increase of the strength of the Army Bearer Corps, for the period of the war from 19,000 to 23,000 men.

Sanction is accorded, as a temporary measure, to the further increase of the Army Bearer Corps, for the period of the war only, from 19,000* to 23,000 men, all on the effective list. The enlistments to be made should be for the period of the war only.

*Army Department letter No. 14243, dated the 21st March 1917

2. The distribution of the total strength of the Army Bearer Corps to Divisional Companies is shewn in the Appendix to this instruction.

3. The extra cost involved which is estimated at approximately Rs. 3,09,860 initial (including Rs. 70,000 for the provision of temporary accommodation for 1,000 men) and Rs. 7,88,436 annual recurring is debitable to His Majesty's Government.

[677 (D. M. S.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India

APPENDIX.

Statement showing the distribution of the revised strength of the Army Bearer Corps.

Number of companies and locality.	Present Authorised Establishment.						Establishment now sanctioned.						Remarks.
	Havildars.	Lance Havildars.	Naicks.	Lance Naicks.	Bearers.	Total effective.	Havildars.	Lance Havildars.	Naicks.	Lance Naicks.	Bearers.	Total effective.	
No. 1, 1st (Peshawar) Division ...	1	16	16	16	1051	1100	1	16	16	16	1051	1100	
No. 2, 2nd (Rawalpindi) " ...	1	34	34	34	2047	2150	1	36	36	36	2191	2300	
No. 3, 3rd (Lahore) " .	1	35	35	35	2094	2200	1	43	43	43	2570	2700	
No. 4, 4th (Quetta) "	1	25	24	25	1625	1700	1	29	29	29	1912	2000	
No. 5, 5th (Mhow) " .	1	28	27	27	1817	1900	1	37	37	37	2288	2400	
No. 6, 6th (Poona) " ...	1	26	23	25	1722	1800	1	29	28	28	1914	2000	
No. 7, 7th (Meerut) " ...	1	49	49	49	3052	3200	1	65	65	65	4104	4300	
No. 8, 8th (Lucknow) " ...	1	48	48	48	2955	3100	1	63	65	65	4153	4350	
No. 9, 9th (Secunderabad) " ...	1	26	26	26	1671	1750	1	26	26	26	1671	1750	
No. 10, Burma Division... ...	...	...	1	1	48	50	...	...	1	1	48	50	
No. 11, Aden Brigade	...	...	1	1	48	50	...	...	1	1	48	50	
Total ...	9	287	237	287	18130	19000	9	317	317	317	21950	23000	

2AI—4,500—8-4-18—GCPS

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 341 of 1918.

SIMLA,
16th April 1918.

341. Transfer of the administration of the Stores Section, Indian Ordnance Department, from the Director General of Ordnance in India to the Quartermaster General in India.

Subject to the approval of the Right Honourable the Secretary of State for India, sanction is accorded, as a temporary war measure, with effect from the 1st of April 1918, to the transfer to the Quartermaster General in India of the custody and issue of Ordnance Stores and the administration of the Stores Section, Indian Ordnance Department.

2. In consequence of the above transfer, all executive orders in connection with the issue or transfer of Machine guns, Mobilisation equipment and other tores of Ordnance supply will, in future, be issued by the Quarstermaster General in India.

[56 (Q. M. G.-15). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 343 of 1918.

SIMLA,

16th April 1918.

343. Fuel allowance to Royal Artillery Depots.

It has been decided that Royal Artillery Depots in India which have a minimum of 12 vehicles on charge shall be granted a fuel allowance of Rs. 5 per mensem under paragraph 250, Army Regulations, India, Volume I.

[57614 (A.G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

.MY INSTRUCTION (INDIA)

No. 345 of 1918.

SIMLA,

16th April 1918.

345. Repair and replacement of surgical appliances provided at Government expense for officers wounded in action.

It has been decided that the rule in Army Regulations, India, Volume I, paragraph 756, regarding the provision of artificial appliances, is intended to cover only the initial cost of such appliances. Officers have themselves to meet the cost of all replacements and repairs.

[495 (D.M.S.). / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 346 of 1918.

SIMLA,
16th April 1918.

346. Submission of reports of the write-off of deficiencies in empty metal cartridge cases.

It has been decided that reports of the write-off of deficiencies in empty metal cartridge cases referred to in Note 4, paragraph 61, Army Regulations, India, Volume III, shall, in future, be submitted quarterly instead of monthly as at present.

[940 (D.G.O.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 347 of 1918.

SIMLA,

16th April 1918

347. Increase in the advance authorised to meet expenses of recruiting parties of the Army Bearer Corps

It has been decided that the advance authorised * to meet the expenses of recruiting parties of Nos. 1 to 9 Companies, Army Bearer Corps, shall, as a temporary measure, for the period of the war, be increased from Rs. 1,000 to Rs. 3,000.

*Army Department letter No 6823, dated 19th July 1916, communicated to General Officers Commanding Divisions under D.M.S's memo. No 12768-1 (D.M.S.-3), *dated 27th July 1916.*

[727 (D.M.S.) / D]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 348 of 1918.

SIMLA,
16th April 1918.

348. Cost of maintenance of military lunatics.

With reference to Army Instruction (India) No. 59 of 1918, it has been decided that the cost of maintenance of military lunatics, who have been sent from the overseas Expeditionary Forces for treatment in Lunatic Asylums in India, shall be assessed under the orders of the Local Government concerned, with due regard to the local conditions obtaining.

2. The expenditure so long as the war accounts are open will be debited to His Majesty's Government through the Controller of War Accounts.

[445 (D.M.S.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 349 of 1918.

SIMLA,
16th April 1918.

349. Rate of pay admissible to an officer of the Indian Mountain Artillery on transfer to the Signal Service.

It has been decided that an officer of the Indian Mountain Artillery who is transferred to the Signal Service shall cease to draw the special rates of pay admissible to officers of the Indian Mountain Artillery.

[59276 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 350 of 1918.

SIMLA,

16th April 1918.

350. Temporary appointment of two Surgeons-General to the Indian Medical Service.

It has been decided, with the approval of the Right Hon'ble the Secretary of State for India, to create, with effect from 13th March 1918 and for the remaining period of the war, two additional appointments carrying the rank of Surgeon-General, such appointments to be filled by officers of the Indian Medical Service in military employment. These appointments, which will be created by converting two Indian Medical Service Colonelcies into Surgeon-Generalships, will carry pay at the rate of Rs. 2,200 per mensem, and service therein will qualify for additional pension under Army Regulations, India, Volume I, paragraph 728, provided that the minimum service prescribed has been rendered.

2. The extra expenditure will be debitable to the ordinary grant and head of account affected.

[14992 (A. D.).
D.]

A. H. BINGLEY, *Major General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 351 of 1918.

SIMLA,
16th April 1918.

351. Effect upon privilege leave of the grant of War Leave to British Officers of the British and Indian Services serving regimentally or on the staff or with departments and services.

It has been decided that paragraph 5 of India Army Order 291 [illegible]7, shall be reconstructed as follows :—

The provisions of this order shall in no way prejudice—

(*a*) an officer's claim to privilege leave already accumulated, or hereafter to be accumulated, under the provisions of paragraph 22[illegible]
except that no
war leave under [illegible]
regarded as counting towards the accumulation of privilege leave :

(*b*) the combining of any privilege leave so accumulated with leave on Medical Certificate under paragraph 222, Army Regulations, India, Volume II, whether such leave on Medical Certificate is taken in or out of India."

[52479 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 350 of 1918.

SIMLA,
16th April 1918.

350. Temporary appointment of two Surgeons-General to the Indian Medical Service.

It has been decided, with the approval of the Right Hon'ble the Secretary of State for India, to create, with effect from 13th March 1918 and for the remaining period of the war, two additional appointments carrying the rank of Surgeon-General, such appointments to be filled by officers of the Indian Medical Service in military employment. These appointments, which will be created by converting two Indian Medical Service Coloneleies into Surgeon-Generalships, will carry pay at the rate of Rs 2,200 per mensem, and service therein will qualify for additional pension under Army Regulations India, Volume I, paragraph 728, provided that the minimum service prescribed has been rendered.

2. The extra expenditure will be debitable to the ordinary grant and head of account affected.

[14992 (A. D.).
D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 351 of 1918.

SIMLA,

16th April 1918.

. Effect upon privilege leave of the grant of War Leave to British Officers of the British and Indian Services serving regimentally or on the staff or with departments and services.

It has been decided that paragraph 5 of India Army Order 291 917, shall be reconstructed as follows :—

5. The provisions of this order shall in no way prejudice—

(a) an officer's claim to privilege leave already accumulated, or hereafter to be accumulated, under the provisions of paragraph 221, Army Regulations, India, Volume II, except that no year in which an officer has been granted war leave under the provisions of this order shall be regarded as counting towards the accumulation of privilege leave :

(b) the combining of any privilege leave so accumulated with leave on Medical Certificate under paragraph 222, Army Regulations, India, Volume II, whether such leave on Medical Certificate is taken in or out of India."

[52479 (A. G.) / H.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 353 of 1918.

SIMLA,

16th April 1918.

353. Percentage on salary admissible as exchange compensation allowance.

It has been decided that the percentage on salary admissible as Exchange Compensation Allowance shall be Rs. 2-13-6 per Rs. 100 for the quarter commencing 1st April 1918. The allowance is subject to a maximum of Rs. 68-3-3 per mensem.

[57735 (A G.-6). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 354 of 1918.

SIMLA,
16th April 1918.

354. Provision of saddlery and line gear for officers attached to Reserve Battalions.

Sanction is accorded to the issue of three sets of universal saddlery and line gear to each Reserve Battalion, for the use of the officers temporarily attached thereto, who are required to be mounted.

The saddlery and line gear will be borne on the equipment ledger of the battalion as Government property, and will be maintained at the expense of the State.

The extra expenditure involved is estimated at Rs. 2,400 initial, and Rs. 400 annual recurring, and is debitable to the ordinary grant and head of account affected in the Army estimates.

[8720 (D. O. O.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 355 of 1918.

SIMLA,

16th April 1918.

355. Conditions of admissibility of detention allowance.

Owing to the large number of representations that are being received relating to the admissibility of detention allowance in the case of :—

(*i*) officers provided with special railway accommodation under paragraph 158, sub-paragraphs I, II and III (*a*), Army Regulations, India, Volume X, and those accompanying them in the reserved accommodation ; and

(*ii*) officers travelling in State owned motor cars ;

it is notified that—

(*a*) detention allowance is inadmissible in the case of (*i*) for days on which the officers travel in such accommodation, and

(*b*) in the case of (*ii*) detention allowance is inadmissible for days on which an officer travels, except where otherwise specially provided for in paragraphs 254 and 259, Army Regulations, India, Volume I. Travelling allowance in the case of (*ii*) is admissible to the extent laid down in paragraph 29, Army Regulations, India, Volume X, to cover expenses incurred in sending servants and baggage by rail or river.

2. The question whether the restriction against the grant of detention allowance in respect of days for which travelling allowance or free passage is received should be withdrawn or otherwise modified has been reserved for consideration after the war.

[82772 (A. G). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 357 of 1918.

SIMLA,

16th April 1918.

357. Recovery rate for payment issues of blankets to men of the Army Bearer and Army Hospital Corps and method of supply of these articles.

With reference to India Army Order No. 266 of 1913, it has been decided that, for the period of the war or until further orders, the maximum recovery rate to be charged to men of the Army Bearer and Army Hospital Corps for payment issues of blankets from the Supply and Transport Corps, shall not exceed Rs. 2-4-0 each and that freight charges thereon shall be waived. The actual purchase price will be charged if lower than the above quoted rate.

2. Blankets will be supplied to the extent necessary, at the time of indenting, to complete to the authorised peace scale of kit, or to replace deficiences or condemnations therein only when such deficiencies or condemnations have not been caused or necessitated through the fault of the individual or corps concerned. On no account shall they be demanded with a view to creating regimental stocks, and indenting officers should be required to furnish a certificate with each indent to the effect that the number demanded is limited to the number actually required.

3. Issues of blankets on payment as above will commence at once. Woollen blankets will be issued on payment to units in Divisions, Divisional Areas and Independent Brigades other than those noted in the margin * in which cotton blankets will be supplied.

* 5th (Mhow), Poona, 9th (Secunderabad) and Burma Divisions.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 356 of 1918.

SIMLA,
16th April 1918.

356. New scale of vegetable ration for British troops.

It has been decided that the following vegetable ration shall, in future be issued daily to British troops in lieu of that now authorised in Army Tables Miscellaneous Services, table 14, item 9, and connected entry :—

Potatoes	oz.	10
Onions	oz.	6
Fresh vegetables, other than onions	oz.	8

The above scale will be varied by the issue of substitutes as circumstances may permit. When substitutes are issued, the following scale of equivalents shall apply—

1 lb. potatoes = $1\frac{1}{4}$ lb. onions

or

2 lbs. fresh vegetables other than onions

or

4 ozs. unsplit dhall (germinated).

Army Tables, Miscellaneous Services, table 14, will be amended in due course

[671 (Q.M.G.) / D.]

A. H. BINGLEY, *Major-General,*

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 358 of 1918.

SIMLA,
16th April 1918.

358. Provision of ammunition for practice of Mobile Artillery Batteries.

Sanction is accorded to the increase of the allowance of practice ammunition for :—

(a) Royal Horse and Royal Field Artillery and Mountain batteries to 250 rounds per gun, and

(b) Royal Garrison Artillery (Heavy) 30-pr. batteries to 100 rounds per gun, for the practice season of 1918-19.

The extra expenditure involved is estimated at Rs. 4,85,830*, and separate orders will be issued regarding the source from which it will be met.

*Home, Rs. 2,43,190.
India, Rs. 2,42,640 †
† *Vide* allocation statement attached.

[(8480 D. G. O.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

4. It is to be understood that the patterns of blankets to be supplied will vary very considerably and that units must accept whatever pattern is available.

5. The extra expenditure involved by the grant of free carriage should be met from the ordinary grants and heads of accounts affected.

[(37465 (Q.M.G.) / D.)]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 358 of 1918.

SIMLA,

16th April 1918.

358. Provision of ammunition for practice of Mobile Artillery Batteries.

Sanction is accorded to the increase of the allowance of practice ammunition for:—

(*a*) Royal Horse and Royal Field Artillery and Mountain batteries to 250 rounds per gun, and

(*b*) Royal Garrison Artillery (Heavy) 30-pr. batteries to 100 rounds per gun, for the practice season of 1918-19.

The extra expenditure involved is estimated at Rs. 4,85,830*, and separate orders will be issued regarding the source from which it will be met.

*Home, Rs. 2,43,190.
India, Rs. 2,42,640.†
† *Vide* allocation statement attached.

[(8480 D. G. O.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

Allocation Statement.

Statement showing the allocation of funds required to meet the expenditure in the Ordnance Department in connection with an increase in the scale of practice ammunition for Artillery in India during 1918-19 :—

			Rs.
Home ...	Stores to be purchased at Home for ordinary requirements in Indian Ordnance Factories ...		2,43,190
India ...	*Grant 10.—Ordnance Establishments—Supplies and Services.*		
	Extra temporary Artificers and others—	Rs.	
	Gun and Shell Factory, Cossipore ...	1,07,800	
	Ammunition Factory, Dum Dum ...	1,07,850	
	Cordite Factory, Aruvankadu ...	24,000	
	Total, Grant 10		2,39,650
	Grant 17.—Conveyance by rail.		
	Railway charges, Ordnance—	Rs.	
	Gun and Shell Factory, Cossipore ...	1,330	
	Ammunition Factory, Dum Dum ...	1,330	
	Cordite Factory, Aruvankadu ...	330	
	Total, Grant 17 ...		2,990
	Total, Indian expenditure ...		2,42,640
	GRANT TOTAL ...		4,85,830

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 359 of 1918.

SIMLA,

16th April 1918.

359. Reorganisation of the existing Combined Ekka and Pony Corps and Ekka Corps.

Attention is invited to Army Department letter No. 9109*, dated the 20th June 1917, as modified by that Department letter No. 9111† of the same date, regarding the formation of 2 Combined Ekka and Pony Corps, and 3 Ekka Corps to meet requirement in connection with the war.

*Communicated to the command and divisional administrative authorities concerned with Quartermaster-general's memorandum No. 27888-1 (Q.M.G.-7), dated the 6th July 1917.

†Communicated to the command and divisional administrative authorities concerned with Quarter master-general's memorandum No. 33340-1 (Q.M.G.-7), dated the 4th July 1917.

It has been decided to reorganise these units into—

1 Pack Corps, to be called No. 61 Pack Mule or Pony Corps.

2 Draught Corps, to be called Nos. 62 and 63 Draught Mule or Pony Corps.

2 Ekka Corps, to be called Nos. 1 and 2 Ekka Corps.

2. The Pack and Draught Mule or Pony Corps will be formed without a Depôt Troop and will be on exactly the same footing as regards personnel and other details, as the transport units, the formation of which was sanctioned in Army Department letter No. 2628‡, dated the 8th April 1916.

‡Communicated to the divisional administrative authorities concerned with Quartermaster-general's memorandum No. 26142-1 (Q.M.G.-7), dated the 26th April 1916.

The organisation of the Ekka Corps will be as already authorised
will be allowed the additional
below :—

44 drivers.

44 ponies.

40 ekkas.

The authorised establishments of Pack and Draught Mule or Pony Corps and Ekka Corps are shewn in the appendix to this instruction

3. The reorganisation of the 61st, 62nd and 63rd Mule or Pony Corps and Nos. 1 and 2 Ekka Corps, and the provision of the extra animals and personnel required, will be carried out under the orders of the Quartermaster-General in India. The units will be located at such stations as may be deemed suitable with due regard to their employment.

4. The 550 additional Army Transport carts required in connection with this scheme will be provided from existing stocks, and will not be replaced without reference to the Government of India.

5. The initial extra expenditure involved is estimated at Rs. 25,200, while there will be a recurring saving of Rs. 61,000 per annum. The expenditure will be adjusted in accordance with the procedure laid down in paragraph 4 of Army Department letter No. 9109, dated the 20th June 1917.

[35382-A. (Q.M.G.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

STATEMENT SHOWING THE AUTHORISED ESTABLISHMENT OF

A Pack Mule (or Pony) Corps,
A Draught Mule (or Pony) Corps,
An Ekka Corps,
} formed without a Depôt Troop.

—	Pack Mule (or Pony) Corps.	Draught Mule (or Pony) Corps.	Ekka Corps.
Commandant	1	1	1
British warrant and non-commissioned officers.	4	4	1
Indian Officers	1	1	3
Quartermaster Dafadars ..	1	1	1
Kot Dafadars	8	8	10
Naiks ...	16	16	20
Veterinary Assistants ...	2	2	2
Lance-Naiks and Drivers ...	282	475	594
Dressers	7	8	5
Clerks	2	2	2
Bellowsboys	4	4	3
Blacksmiths	4	4	3
Carpenters	1	4	5
Hammermen	4	4	3
Shoeingsmiths	2	4	5
Saddlers	16	16	10
Syces	7	7	8
Ekkas	...	...	550
Ponies or mules	768	864	594
Riding ponies	14	14	16
Army Transport carts ...	...	400	...

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GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 360 of 1918

SIMLA,

16th April 1918.

360. Pay to be admitted to Indian officers and soldiers of Silladar Cavalry when deputed for employment under the Imperial Government, a colonial administration, or if employed extra-regimentally, during the war.

It has been decided that the following rules shall govern the employment of an Indian officer or soldier of silladar cavalry when employed under the Imperial Government, a colonial administration, or if employed extra-regimentally, during the war.

2.—In the case of a man who on being seconded from his corps does not take his horse or saddlery with him—

(a) if employed for any period exceeding three months his account with the regiment will be closed and his assami will be held in deposit with the regiment until his return to it;

(b) kit taken by the man will be valued by a regimental committee and his accounts will be credited with the value thereof, Government compensating the unit for the amount so credited;

(c) while absent from his unit the man's pay will (unless some special rate of pay has been specifically fixed) be regulated as laid down in paragraph 896, Army Regulations, India, Volume I, for non-silladar cavalry;

(d) on his return to his corps the man's kit, *i.e.*, articles which he may have taken with him and such articles as he may have been supplied with subsequently, will be taken over by the corps, and, having been valued as before, the value will be credited to Government. The man himself will receive dismounted rates of pay until absorbed in his corps.

3. In cases in which an Indian officer or soldier of silladar cavalry may be required to take his horse and saddlery with him, it is not desired to lay down any general rule. Each case will be decided on its merits.

[58927 (A. G.) / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 361 of 1918.

SIMLA,

16th April 1918.

361. Grant of a tuition allowance for providing instruction in colloquial Hindustani to officers attached to all Mechanical Transport formations in India.

In supersession of the orders contained in Army Department letter No 1158*, dated the 28th January 1918, it has been decided that the provisions of Army Department letter No. 9300†, dated the 23rd June 1917, regarding the grant of a tuition allowance for providing instruction in colloquial Hindustani to officers of the Indian Army shall be applicable to officers attached to all Mechanical Transport formations in India.

*Communicated to Heads of Branches of Army Headquarters, General Officers Commanding, Northern Command and Divisions, and Controllers of Military Accounts concerned, with Army Department endorsement No. 1159, dated the 28th January 1918.

†Communicated to Heads of Branches of Army Headquarters concerned, General Officers Commanding Commands, Divisions and Independent Brigades, and Controllers of Military Accounts, with Army Department endorsement No. 9301, dated the 23rd June 1917.

2. These orders will have retrospective effect so as to cover the cases of any such officers as may have already drawn or claimed the tuition allowance referred to.

3. The expenditure involved is debitable to "Grant 14—War, India—Miscellaneous"—under the Army Head.

[17188 (G. S.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 362 of 1918.

SIMLA,

16th April 1918.

362. Formation at Ambala of a separate Mountain Artillery Depot.

It has been decided that the Mountain Artillery details at present located in the Royal Artillery Depôt, Ambala, shall be formed into a separate Depôt, the organisation of which is detailed in the annexure to this instruction.

2. The Royal Artillery Depôt, Ambala, will, in future, be restricted to Royal Horse and Royal Field Artillery details only.

3. The expenditure involved should be adjusted in the same manner as charges of depôts of units on service with Indian Expeditionary Forces.

[03199 (A. G.) / R.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

Scheme for the formation of a Mountain Artillery Depot at Ambala.

Establishment.—This Depot will have a normal establishment of 500 Indian recruits. The establishment of the Permanent Staff will be as detailed below :—

British Officers—	
Captains (temporary)	1
Subalterns	1
	2
British Ranks—	
Battery Quartermaster-Serjeant	1
Pay Serjeant	1
Serjeant	1
Corporals	2
Gunners	4
	9
Indian Officers—	
Jemadars	2
Indian Ranks—	
Havildar Major	1
Quartermaster Havildar	1
Assistant Quartermaster Havildar	1
Pay Havildar	1
Assistant Pay Havildar	1
Havildar Gunners	1
Havildar Drivers	1
... ...	6
Naik Gunners	7
Naik Drivers	13
Gunners	2
Drivers	4
Salutri	1
Shoeing Smiths	2
	44

Followers—

Moochi	1
Bhistis	4
Sweepers	5
Cooks	10
Bildar (with cart)	1
	21

Animals—

Mules	100

Pack saddlery—

Sets ...	100

In order that as many recruits as possible may be obtained, the following establishment of Non-commissioned officers is authorised for each complete 50 Indian Ranks in excess of 500—

1 Havildar

2 Naiks.

Sources of supply of personnel—

British Officers.—Will be posted by the Military Secretary to His Excellency the Commander-in-Chief

British ranks.—With the exception of the Battery Quarter master Serjeant, (who will be posted by Army Headquarters), will be detailed from the men available in the Royal Artillery Depôt, Ambala

Indian Officers and Indian Ranks.— Will be detailed from among those present in the Royal Artillery Depôt, Ambala; Non-commissioned officers and Artificers who are not available will be specially promoted or appointed.

Followers.—Will be found from those available in the Royal Artillery Depôt, Ambala. Those not available should be specially entertained

Animals and Pack saddlery.—Will be found from those available in the Royal Artillery Depôt, Ambala.

Allowances—

The following allowances and extra duty pay are authorised :—

Contingent Allowance, including Office and Marking Allowances. —Rs. 250 initial and Rs. 50 per mensem.

Commanding Officer.—If commissioned from the ranks—staff pay at Rs. 125 per mensem with exchange compensation allowance. If not commissioned from the ranks—staff pay at Rs. 150 per mensem with exchange compensation allowance.

2nd British Officer.—Staff pay at Rs. 100 per mensem.

Pay Serjeant.—Extra duty pay at Rs. 12 per mensem.

Assistant Instructor in Physical Training.—Extra duty pay at Rs. 5 per mensem.

Petty Supplies.—An allowance of Rs. 60 per annum.

Allowances for clerical assistance.—For every 400 or fraction of 400 in excess of 500 belonging to, or attached to the Depôt who are actually overseas or are supernumerary to the establishment in India, Rs. 30 per mensem.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 363 of 1918.

SIMLA,
16th April 1918.

363. Pay of Indian Army Officers on the temporary half-pay list or retired on permanent half-pay (being ineligible for a retiring pension or an invalid pension).

It has been decided that the following new scale of invalid pensions (this term will in future be used instead of half-pay) shall be introduced to govern the case of Indian Army officers not qualified for pension, who have been invalided and remain unable to rejoin for duty on the Indian establishment at the end of two years' leave:—

	Per annum. £
2nd Lieutenants or Lieutenants	80
Lieutenants after 6 years' service	100
Captains under 9 years' service	130
Captains of 9 and under 12 years' service ...	145
Captains of 12 and under 15 years' service ...	160
Captains and Majors of 15 years' service ...	175
Captains and Majors of 16 years' service ...	180
Captains and Majors of 17 years' service ...	190

2. The invalid pension of officers with less than 15 years' service will be granted on the same conditions as the present half-pay, *viz.*, to all officers under 15 years' service permanently incapacitated for further service in India on account of medical unfitness, with the exception of officers who have not had three years' service in India in the Indian Army or who have not qualified for retention therein, and are invalided for unfitness not caused by duty, whose cases will be dealt with under the conditions laid down in the Royal Warrant.

3. With the last mentioned exception, no distinction will be made between unfitness caused by duty and unfitness not so caused (provided that the officer is free from blame as to the cause of his disability). The invalid pensions therefore of officers of 15, 16 and 17 years' service will not be confined as at present to cases in which the disability is caused by duty.

4. These invalid pensions are sanctioned with effect from the 1st January 1918; in cases where pensions have already been assessed under the old rules, for disability due to the war, such pensions will be reassessed under the new rules from that date.

5. There remains the question of the position of officers on what is at present known as the temporary half-pay list, *i.e.*, officers who, though non-effective, are not permanently retired. The terms "temporary half-pay" and "temporary half-pay list" will be abolished, and "temporary invalid pension", and "temporary non-effective list" will be substituted. An officer on the temporary non-effective list will receive the rate of invalid pension or the retiring pension admissible for his length of service The conditions of service on the temporary non-effective list will remain the same as at present in force for the temporary half-pay list.

6. During the war many officers of the Indian Army have been employed by the War Office while on sick leave, on such duty as they are fit for Any officer who at the end of two years' sick leave necessitated by field service during the war is unfit for duty in India but is employed on full or light duty in the United Kingdom or elsewhere will be retained on the active list while he is so employed. This instruction does not apply to the Indian Medical Service.

[49018 (A G.-6) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 364 of 1918.

SIMLA,

16th April 1918.

1. Delegation of powers to the General Officers Commanding, Northern and Southern Commands, and the General Officers Commanding, 4th (Quetta), 8th (Lucknow) and Burma Divisions, to decide whether a wound or injury pension is admissible to Indian ranks of the Indian Army and non-combatant departmental and regimental employes and followers of the supplemental services, who are invalided from the service on account of frost-bite or trench-foot contracted on field service.

In supersession of the orders in the communications cited in the margin, it has now been decided that applications for the grant of pensions on account of frost-bite and trench-foot contracted on field service shall be dealt with by the General Officers Commanding, Northern and Southern Commands, and the General Officers Commanding Independent Divisions as part of items II, III and IV of annexure I to Army Department letter No. 14841-1 (A. D.), dated the 21st November 1917.

Army Department letter No. 5291, dated the 14th April 1917.
Army Department letter No. 10368, dated the 19th July 1917.
(Copies attached as annexure II to this Instruction.)

2. The policy to be followed in dealing with such cases is detailed in annexure I to this Instruction.

[02200 (A. G) / B]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

ANNEXURE I.

Policy to be followed when considering the grant of a wound or injury pension to Indian ranks of the Indian Army and non-combatant departmental and regimental employes and followers of the supplemental services who are invalided from the service on account of frost-bite or trench-foot contracted on field service.

The grant of a wound or injury pension will depend on the circumstances in which the disability was contracted. Following the principle laid down in paragraph 1055, Army Regulations, India, Volume I, the grant of a wound pension will depend on whether the disability is directly attributable to active operations actually in progress, such as prolonged standing in trenches in the presence of the enemy. Take, for example, a soldier invalided on account of frost-bite or trench-foot contracted in Gallipoli. Troops on that front were exposed to fire during the whole period that they were on the peninsula. In that case it has been the practice to regard the disability as the result of active operations. A wound pension would therefore be admissible. Cases have, however, occurred where such disabilities have been contracted well out of reach of enemy guns, and in one case at Marseilles. In such cases an injury pension only is admissible. Non-combatants (such as Dhobis, Cooks, etc) invalided on account of frost-bite attributable to field service should ordinarily be restricted to pensions at the injury rates, except in those few special cases where it is clearly proved that the exigencies of the service required any individual of this particular class to be in the trenches for a considerable time or in the firing line, with the result that he contracted the disability which may then be regarded as an incident of the active operations in progress at the time that it occurred.

ANNEXURE II.

Copy of a letter from the Secretary to the Government of India, Army Department, to the Adjutant-General in India, No. 5291, dated Simla, the 14th April 1917.

I am directed to refer to Army Department letter No. 10741, dated the 28th September 1916, and to say that, in future, all applications for injury pension on account of frost-bite caused by field service, should be submitted for the orders of the Government of India.

Copy of a letter from the Secretary to the Government of India, Army Department, to the Adjutant-General in India, No. 10368, dated the 13th July 1917.

I am directed to refer to Army Department letter No 5291, dated the 14th April 1917, in which it was stated that, in future, all applications for the grant of injury pensions on account of frost-bite caused by field service should be submitted for the orders of the Government of India

2. I am now to say that all such cases which have occurred
ry pensions have been grant-
should be submitted to the

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 365 of 1918.

SIMLA,

16th April 1918.

365. Employment of police pensioners and civilians to assist District Assistant Recruiting Officers and to act as conducting parties when necessary.

It has been decided that the provisions of Army Department letter No. 16908, dated the 9th November 1917, of which a copy is published as an annexure, shall be applicable to all Local Governments and Administrations concerned.

2. The provision of clothing for civilians employed on recruiting duty is authorised in Army Instruction (India) No. 81 of 1918.

3. In the case of Police Pensioners, the clothing authorised in paragraph 2 (*iii*) of the letter cited above will be on the scale prescribed for Police in the Police Manual of the Province concerned.

[55507 (A. G.) / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

ANNEXURE.

Letter No. 16908, dated the 9th November 1917, from the Secretary Government of India, Army Department, to the Chief Secretary to the G ment of Bombay, Revenue Department.

I am directed to refer to your letter No. 11858, dated th October 1917, relative to the employment of police pensioner assist District Assistant Recruiting Officers on recruiting duty to act as conducting parties when necessary.

2. Under the existing orders of the Government of Indi employment of military pensioners only is authorised for this d but it is stated in your letter that as in some districts of the Bom Presidency military pensioners are not available, the Governm of Bombay have authorised the Collectors to entertain police sioners for the purpose on the rates of pay and allowances det below, and you request that the sanction of the Governmen India may be accorded to the action taken in the matter :—

(*i*) The full pay (including good-service pay, if any) w the police pensioners were in receipt of at the t of their retirement in addition to their pension.

(*ii*) Batta at Rs. 5 per mensem.

(*iii*) Clothing as allowed to police under part II of Ch ter X of the Bombay District Police Man Volume I.

3. In reply I am to say that, in the circumstances represen the Government of India approve the employment of police p sioners within the scale authorised and on the conditions st above provided that military pensioners are not obtainable recruiting work. There is also no objection in similar circumstan to the employment, at the discretion of civil heads of Districts, approved civilians as recruiters in place of military pensioners the following conditions :—

Pay of sepoy and free rations, or money allowance in li in addition to batta, *vide* paragraph 901, Arm Regulations, India, Volume I. The character the men so employed should be vouched for the civil authorities.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 366 of 1918.

SIMLA,

16th April 1918.

366. Rifle ranges in future to be constructed on the "Gallery" system only, in accordance with revised standard plans.

No more rifle ranges on the "Trolley" system will be constructed in India and Burma All copies of the standard plan—No. 49 (A)—for this type of range should be endorsed accordingly. They will, however, be retained for reference in connection with the repair and upkeep of existing "Trolley" ranges.

2. Revised standard plans for "Gallery" ranges in India and Burma, in substitution for the existing plans bearing the same numbers, are sanctioned, as detailed below :—

No. 49 (B). Stop Butt and Gallery for Rifle Range (Revised in 1918).

No. 49 (C). Rifle Range. Details of Target Apparatus. Carey's "Hythe" pattern (Revised in 1916).

These plans will be distributed to all Military Works Officers by the Director General of Military Works.

[6586 (M. W.) / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

341—45 W—14 4-18—GCPS

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 367 of 1918.

SIMLA,

23rd April 1918.

367. Future distribution of Army Instructions (India), India Army Orders and Army Department Extracts from the Gazette of India to the Army in India.

With effect from the date of this Instruction, Army Instructions (India), India Army Orders and Army Department Extracts from the Gazette of India will be despatched direct from the Government Press, to the General Officers Commanding, Northern and Southern Commands, Divisions, Independent Brigades and other Brigades They will no longer be separately consigned to the respective staffs, units and formations subordinate to the above authorities. The total number of copies of each publication to be sent to General Officers Commanding will be regulated in accordance with the statements of their respective actual requirements in regard to copies of India Army Orders which have recently been obtained. Such amendments to the distribution list as may be found necessary hereafter should therefore, in all cases, be intimated by staffs, units, etc, to the General Officers Commanding concerned The latter, after satisfying themselves of the necessity of the indents received, will inform the Adjutant General in India of any additions or alterations in the total number of copies of each publication required for future issue No communication on the subject of current issues should be addressed to the Government Press.

2. With reference to Special India Army Order No. 9 S. of 1918 applications for past issues of any of the above mentioned publications should be addressed, as prescribed in India Army Order 45 of 1918, to the Superintendent, Government Printing, India

Calcutta. Such applications should be regulated strictly in accordance with necessity, as a limited stock only of past issues of each publication is maintained for supply in the first instance to new units and formations.

[14870 (A D.) / E.]

...or-General,

...nment of India

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 368 of 1918.

SIMLA,

23rd April 1918.

368. Maintenance of stocks of clothing and necessaries by Silladar Cavalry regiments.

With reference to India Army Order No. 40 of 1917,* it has been decided that the provisions of India Army Order No. 1192 of 1917, regarding the maintenance of a three months' stock of clothing and necessaries by Indian units and British units with Indian personnel, shall apply to regiments of silladar cavalry.

*Army Department letter No 32545-2 (A.G.-5), dated 16th December 1916

Army Department letter No 29821-II.2 (Q.M.G.-8-A.), dated 2nd October 1917.

2. Stocks as above will be drawn and accounted for under arrangements similar to those explained in paras I, II (i) and III of annexure "A" to Army Department letter No. 29821-II.-2 (Q M.G.-8-A.), dated 2nd October 1917

3. Before a fresh indent for stocks is complied with, the cost, including packing and freight of the previous indent, will be recovered in full from the unit concerned.

[1083 (Q.M.G.). / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 370 of 1918.

SIMLA,

23rd April 1918.

370. Installation of electric lights and fans in cook-houses of barracks of British Troops.

It has been decided that, at stations where there is an electric installation, electric lights and fans may be provided, as funds become available, in cook-houses in the barracks of British troops on the following scales :—

Lights.—1 C. P. to 15 sq. ft.

Fans.—1 ceiling fan per cook-house used by European cooks during the hot weather.

2. The rules for Military Electrical Installations published with Army Department letter* No. 3478-8 (M. W.-4), dated the 17th February 1914, and circulated to General Officers Commanding, Divisions and Independent Brigades, with the Director-General of Military Works' Circular No. 2-E., of 3rd March 1914, will be amended accordingly

*Copies communicated to all Local Governments and Administrations, Financial Adviser, Military Finance, and the Examiner of Accounts, Military Works.

[6510 (M.W.-4) / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 369 of 1918.

SIMLA,

23rd April 1918.

369. Class for Instruction of the Personnel of Armoured Motor Batteries in mechanism and driving.

Sanction is accorded to the formation of a class for training the personnel of Armoured Motor batteries in India in mechanism and driving with a view to ensuring a sound system of instruction in the subjects mentioned in Section 5, paragraph 4 (*iv*), Armoured Motor Training, India (Provisional), 1917.

2. The class will be located at Peshawar and will last for a month from the 15th April. It will consist of approximately 20 students.

3. Officers will be accommodated in a hotel, and non-commissioned officers in camp with messing in a non-commissioned officers' mess.

4. Tentage will be arranged for locally.

5. Subsidiary instructions have been issued to all concerned.

6. The expenditure is debitable to the ordinary grant and head of account.

[793 (G.S.) / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 370 of 1918.

SIMLA,

23rd April 1918.

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*Copies communicated to all Local Governments and Administrations, Financial Adviser, Military Finance, and the Examiner of Accounts, Military Works.

[6810 (M.W.-4). / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 372 of 1918.

SIMLA,

23rd April 1918.

372. Wound and injury pensions to non-combatant employés of the classes referred to in paragraph 1062, A. R., I., Vol. I.

It has been decided that, with effect from the 4th August 1914, the rates of the wound and injury pensions of the non-combatant employés referred to in paragraph 1062, Army Regulations, India, Volume I, shall be calculated in accordance with the revised rates of wound and injury pensions admissible to combatants as promulgated in India Army Order No. 51 of 1917 (paragraph 1061, Army Regulations, India, Volume I).

[49156 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 371 of 1918.

SIMLA,

23rd April 1918.

371. Payment of claims for compensation for loss of kit, etc., in passenger ships sunk by enemy action during the war

It has been decided that in cases of claims for compensation for loss of kit, etc., caused by the sinking of ships by the enemy payment need not be deferred owing to the absence of a receipt for replacements where a receipt was not given to the purchaser In such cases the claimant's statement should be accepted. In all cases where a claim is valid necessary funds should be advanced on production of unpaid bills, receipts being obtained later. The foregoing procedure, which will only be operative during the period of the war, should be applied to any outstanding claims of this nature.

[53727 (A.G). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 374 of 1918.

SIMLA,
23rd April 1918.

374. Drawing of a portion of pay at a privileged rate of exchange by British and Indian officers, troops and followers serving at Mascat.

It has been decided that British and Indian officers, troops, followers, and Indian civilian subordinates serving at Masqat shall be permitted to exchange the following portions of their pay at the privileged rate of exchange of Rs. 100=70 dollars :—

British officers, British and Indian Army.

	Rs.
Below the rank of major	200
Of the rank of major or above	400

Others.

One-third of emoluments subject to a maximum of Rs. 150 per mensem.

[56324 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 373 of 1918.

SIMLA,
23rd April 1918.

373. Repairs to part-worn clothing and boots of Indian troops and followers in India.

In order to obviate premature and unnecessary condemnations and replacements of clothing and boots in wear by Indian troops and public followers in India who are entitled to free issues, but for whom no clothing allowance is authorised, it has been decided that repairs to those articles shall, when considered necessary, be carried out locally by commanding officers concerned, and the cost thereof recovered from Government monthly in the usual manner.

[038 (Q. M. G.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 375 of 1918.

SIMLA,
23rd April 1918.

375. Separation allowance admissible for moves within India.

It has been decided that the concessions announced in India Army Order No. 1268 of 1917, shall be admissible only during the war.

[03734 (A.G.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 376 of 1918.

SIMLA,
23rd April 1918.

376. Provision of bicycles for Cadet Colleges at Quetta and Wellington.

It has been decided that bicycles will be provided and maintained at the public expense, up to 66 per cent. of cadets *plus* 10 per cent. spare, as part of the equipment of the Cadet Colleges at Quetta and Wellington. The machines will be issued to cadets on hire at the rate of Rs. 5-8-0 per mensem.

2. The cost involved will be debitable to His Majesty's Government and should be passed to the Central War Controller for adjustment.

[58229 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 377 of 1918.

SIMLA,

23rd April 1918.

377. Treatment of cases of overstayal of leave by Indian ranks and followers of the Indian Army through sickness or other unavoidable cause.

It has been decided, as a temporary measure for the duratio of the war, that in all cases in which the Officer Commanding th Brigade is satisfied that it is not by the fault of the person grant ed leave that leave is overstayed, the period by which the leav after the full extension of six months under Army Regulation India, Volume II, paragraph 268, is exceeded shall count as se vice for pension or gratuity, Army Regulations, India, Volume paragraph 1029-A (vi) notwithstanding. This concession is a missible up to a period of one year on the authority of the Off cer Commanding the Brigade; for a further period the special san tion of the Government of India is necessary.

2. All outstanding cases should be dealt with under this I struction.

[0908(A. G.-5). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 378 of 1918.

SIMLA,
23rd April 1918.

378. Allowance for the purchase of expendible stores for use in training men of pioneer units.

The allowance of Rs. 500 per annum authorised under Army Department letters Nos 1289 A. D.,* and 11198*, dated 18th May 1906 and 9th October 1916 respectively, for the purchase of expendible stores for use in training the men of permanent Indian Pioneer battalions and, as a temporary war measure, for the depots of such of them as may be on field service, is also admissible to any additional Indian Pioneer battalions raised as temporary formations or to their depots when they proceed on field service, and to any British Pioneer battalion or to the depot of a British Pioneer battalion which may happen to be located in India during the period of the war.

*Communicated to all General Officers Commanding Divisions and Independent Brigades and all Controllers of Military Accounts.

2. Each Commandant may apply the stores in the manner best calculated to further the instruction of the men of the regiment in pioneering duties. All such purchases of stores should be supported by vouchers for audit purposes, and all expenditure of stores should be vouched for on a certificate signed by the General Officer Commanding concerned.

3. The cost involved will be debitable to the ordinary grant and head of account affected.

[558 (G. S.) / E]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 380 of 1918.

SIMLA,
23rd April 1918.

380. Free passage for attending instructional courses and examinations.

The passage concession authorised in Army Regulations, India, Volume X, paragraph 50 (*a*), is admissible to all individuals attending authorised courses of instruction or examinations in professional subjects and languages, whether *voluntary* or *obligatory*, provided that in the case of voluntary examinations, etc., they are detailed or permitted by competent authority to attend them.

[791 (Q M G.) / D.]

A. H. BINGLEY, *Major General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 379 of 1918.

SIMLA,

23rd April 1918

379. Detention allowance to officers in receipt of British rates of pay when detained within Indian limits.

It has been decided that the provisions of India Army Order No. 570 of 1917 shall be applicable to officers in receipt of British rates of pay, other than those deputed to India on duty from Mesopotamia (see India Army Order No. 211 of 1917), when detained within Indian limits.

2. All outstanding cases should be disposed of in accordance with this decision.

[01636 (A. G.) / B.]

A. H. BINGLEY, *Major-General*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 381 of 1918.

SIMLA,

23rd April 1918.

381. Appointment of an additional specialist in Ophthalmology.

Sanction is accorded to the appointment of an additional specialist in Ophthalmology and the reduction by one of the appointments of specialist in Advanced Operative Surgery sanctioned for the period of the war in Army Department letter No. 10600, dated 27th September 1916.

[2160 (D. M. S.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 382 of 1918.

SIMLA,
23rd April 1918.

382. Provision, as a temporary measure, of ambulance chaguls for the carriage of water for troops travelling by rail in vehicles which have not yet been fitted with water tanks.

In order to ensure that troops, when travelling in military cars which have not yet been fitted with drinking water tanks, and small parties of troops who may have to travel by ordinary coaching stock, are provided with an adequate supply of drinking water, it has been decided to provide, as a temporary measure, ambulance chaguls for the carriage of drinking water at the rate of 1 chagul per 2 men. These chaguls will be held on charge by Embarkation Commandants and Railway Transport Officers at selected railway stations in India where reliable drinking water is procurable.

2. The expenditure involved, which is estimated at Rs. 3,300 will be debitable to the ordinary* grant and head of accounts.

*Grant 17—Conveyance by Rail.

[3035-R.S.(Q.M.G.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 383 of 1918.

SIMLA,
23rd April 1918.

383. Allowances for the Offices of District Assistant Recruiting Officers.

Sanction is accorded to the allowance of Rs. 50 per mensem at present authorized for the Offices of District Assistant Recruiting Officers being increased up to a maximum of Rs. 100 per mensem on the recommendation of the Divisional Recruiting Officer when such increase is considered necessary—

(*i*) to provide additional clerical establishment, or

(*ii*) to meet expenditure in connection with Depots for the temporary reception of recruits.

2. This sanction is conditional on the recommendation in each case being approved by the Adjutant General in India.

3. The amounts sanctioned will be paid to the District Assistant Recruiting Officers who will submit accounts of the expenditure incurred to their Divisional Recruiting Officer.

4. The allowance must meet all expenses in connection with the Office and defray the cost of stationery and forms (other than such as are supplied gratis by Government), whether received from the Divisional Recruiting Officer or obtained elsewhere.

[01447(A.G.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 384 of 1918.

SIMLA,

23rd April 1918.

384. Family pensions to Departmental Officers with Honorary Rank and disability and family pensions to Warrant Officers of Indian Army Departments.

India Army Orders Nos 975, dated the 27th August 1917, and 1264, dated the 12th November 1917.

With reference to the marginally cited orders it has been decided that a departmental officer with honorary rank, whose death is attributable to the present war, shall be treated as a Quartermaster for the purpose of the grant of family pension. The pension admissible to the widow should be assessed according to the rank held at the time of the officer's death, *i.e.*,

Assistant Commissary	... ...	Lieutenant
Deputy Commissary	.. ...	Captain
Commissary	.. ...	Major

It has also been decided that the disability or family pension of a Warrant Officer of an Indian Army Department, whose incapacity or death is attributable to the war, shall be equal to such pension as would be granted in the British Service.

This decision has effect from the beginning of the war and all outstanding cases should be disposed of accordingly by the Controllers of Military Accounts concerned, the rules under which such pensions are granted in the Indian Service being adhered to.

This Instruction and also the India Army Orders referred to do not apply to the Indian Subordinate Medical Department

[80?05(A.G.-6.)-B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

(384)

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 385 of 1918.

SIMLA,

23rd April 1918.

385. Increase of the limit of the financial powers of Assistant Directors of Grass and Dairy Farms in respect of the employment of temporary Indian establishment on farms.

It has been decided to increase the limit of the financial powers of Assistant Directors of Grass and Dairy Farms, in respect of the employment of temporary Indian establishment from Rs 20 to Rs 30 per mensem

2. Consequent on the above, the following modifications in (i) the General Rules for the administration of military grass farms and the preparation of their accounts and (ii) the General Rules regarding the accounts of military dairy farms (latest reprint 1915) as amended by Army Department letter* No. 26873-3 (Q.M.G.-9), dated 19th August 1916, are approved: —

*Communicated to Assistant Directors of Dairy Farms under Q.M.G.'s No. 26873-5 (Q.M.G.-9), dated 25th August 1916

(i) Military Grass Farm Rules. In paragraph 1, last clause, *for* "Rs. 20 per mensem" *substitute* "Rs 30 per mensem"

(ii) Military Dairy Farm Rules In paragraph 5, *delete* from "and to sanction" in line 6, to end of the paragraph, and *substitute* "and to sanction the employment of temporary establishments as required, without limit of period (except clerical establishments), provided

that the pay of any person so employed does not exceed Rs 25 per mensem for Europeans and Rs 30 per mensem for Indians Artisans on pay in excess of Rs. 30 per mensem and temporary clerical establishments can be employed for periods not exceeding six months and subject to the limitation of financial powers of Divisional Commanders."

3. The extra expenditure will be met from the grant and head of account affected.

[30678-Q.M.G. / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 386 of 1918.

SIMLA,

23rd April 1918.

386. Peace establishment for machine gun companies in India.

Sanction is accorded to the following peace establishment for Machine Gun Companies authorised as a permanent addition to the Army in India.

Vide Army Department letter No 18712-1 (C. G. S. D 3) dated 23th November 1917

(Communicated to commands, Divisions, Independent Brigades and all Controllers of Military Accounts under Army Department endorsement No 18712-2 (C. G. S., S. D-3).)

Detail.	Peace establishment.	
British Officers—		
Major or Captain ...	[illegible]	
Captain or Lieutenant (2nd-in-Command)	1	
Subalterns	[illegible]	
	9	
British Ranks—		
Company Serjeant-Major ...	1	
Company Quartermaster Serjeant	1	
Serjeants	6	
Corporals	[illegible] (1)	(1) Includes 1 Signalling Corporal
Lance Corporals	8	
Signallers	7	
Range Takers	8	
Scouts	[illegible]	
Storeman	1	

Gunners	...	...	91
Artificer	...	...	1
Cook	...	...	1
			144
Indian Ranks—			
Jemadar	...	...	1
Shoeing Smith	...	...	1
Salutris	...	...	1
Buglers	...	...	2
Havildars	...	...	4
Naicks	...	...	)
Drivers	...	...	77
			90
Followers—			
Moochi	...	..	1
Bhistis	...	...	5
Sweepers	...	...	5
Cook (Langri)	...	...	1 (b)
			12

(b) For Indian Ranks.

2. The expenditure involved is debitable to the ordinary grant and head of account affected.

[38965 (A. G.) / 1.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 387 of 1918.

SIMLA,

23rd April 1918.

387. Staff pay for depot staffs of Indian Infantry units on field service.

It has been decided in supersession of the orders in India Army Order No. 535 of 1917 and in Army Instruction (India) No. 24 of 1918, that the staff pay for the depot staffs of Indian Infantry units on field service shall be regulated as follows :—

For a depot with a strength (excluding men on field service and supernumerary in India)—

—	Officer Commanding.	Adjutant.	Accounts Officer and Quartermaster.	Senior Indian Officer.	Jemadar Adjutant.
	Rs.	Rs.	Rs.	Rs.	Rs. A. P.
Not exceeding 500	200	150	150	...	10 0 0
Exceeding 500 but not exceeding 750	300	200	150	30	10 0 0
Exceeding 750 ...	400	200	150	50	17 8 0

2. The rate of staff pay will be reviewed by the General Officer Commanding the Division or Independent Brigade in which the depot is located every three months, the first review being made in the first week of July 1918 for the quarter ending the 30th June 1918. In the meantime the rates which the staff are at present receiving will be continued.

3. When at the time of review the strength of a depot in which the maximum rate of staff pay is in force has fallen below 751, or, in the case of a depot where the intermediate rate is in force, below 501, the General Officer Commanding will consider whether the higher rate of staff pay should be continued or the staff restricted to the rate of staff pay authorised by the actual strength of the depot. If the General Officer Commanding decides that the higher rate of staff pay should be continued he will give a definite order to this effect, with full reasons for his decision. In the absence of any order to this effect by the General Officer Commanding, the Controller of Military Accounts will reduce the staff pay of the depot staff to the rate to which they are entitled by the depot strength.

4. In the case of a depot whose strength reaches 501 or 751 for the first time, the appropriate rates of staff pay will be admitted with effect from the date on which the higher level is reached and will continue in force under the periodical orders of the General Officer Commanding concerned.

5. The extra expenditure involved will follow the incidence detailed in India Army Order No. 535 of 1917, or Army Instruction (India) No. 24 of 1918 as the case may require.

[01556 (A.G.-6) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 388 of 1918.

SIMLA,

23rd April 1918.

388. Allowances admissible to the Instructional Staff at signalling courses.

In supersession of the orders contained in Army Department letters* Nos 11888 and 13862, dated 26th October 1916 and 14th September 1917, respectively, sanction is accorded to the following measures for the period of the war in connection with the instruction of officers, non-commissioned officers and men in signalling—

* Communicated to General Officers Commanding Divisions and Independent Brigades and to Controllers of Military Accounts, with Army Department endorsements Nos 11889 and 13862, respectively.

(1) British and Indian officers and non-commissioned officers, whether Regular British or Indian, or Territorial, when detailed as instructors and assistant instructors of "A" courses, 2nd class instructor courses special telephone courses, or classes formed for the training of signallers of two or more British or Indian units, shall, if not already in receipt of signal service pay draw allowances as follows —

(a) *British officers*.—Signal allowance as Company Officers of Divisional Signal Companies *vide* Note to Army Regulations India, Volume I, paragraph [illegible] (c

(b) *British non-commissioned officers*.—Extra duty pay as assistant instructors, *vide* Army Regulations, India Volume I, paragraph 564 XI

(c) *Indian officers.*—Extra duty pay as assistant instructors at Rs. 15 per mensem.

(d) *Indian non-commissioned officers.*—Extra duty pay as assistant instructors, *vide* Army Regulations, India, Volume I, paragraph 968.

The allowances of assistant instructors, who are already in receipt of such as regimental instructors, will be available in their units for the non-commissioned officers performing their duties in their absence.

(2) (a) A notification in India Army Orders of the formation of the courses mentioned above, giving the detail of instructors and assistant instructors, shall be the authority to all concerned for the issue of the allowances mentioned.

(b) In cases where instructional schools are formed, the allowances mentioned above will be admissible continuously to the instructional staff for the period during which they hold their appointments at these schools. In all other cases the period for which the allowances are admissible will be stated in India Army Orders

3 The allowances mentioned in (1) (a), (1) (b), (1) (d) and (2) (a) will have effect from 1st August 1916, those in (2) (b) from 1st October 1916, and those in (1) (c) from 1st January 1918

4. The extra expenditure involved is debitable to His Majesty's Government, and should be passed to the Central War Controller for adjustment

[374-G.S. / E.]

A. H. BINGLEY, *Major-General*,
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 389 of 1918.

SIMLA,

23rd April 1918.

389. Grant of consolidated rates of pay to clerks of the Military Farms Department serving in Mesopotamia.

It has been decided that clerks of the Military Farms Department serving in Mesopotamia shall be granted the consolidated rates of pay shown in the Appendix. These consolidated rates include the field batta and special allowance referred to in India Army Order No. 175 of 1916 and will take effect from the date of this instruction

2. The expenditure involved is debitable to His Majesty's Government and should be passed to the Controller of War Accounts for adjustment in accordance with the instructions in Finance Department (Military) letter No. 480-Accounts, dated the 3rd May 1915, and any subsidiary orders that may be issued on the subject.

[234 Q.M.G. / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

Appendix to Army Instruction (India) No. 389, dated 23rd April 1918.

Consolidated rates of pay for farm clerks serving in Mesopotamia.

Substantive pay.	Consolidated pay including field batta.
Grass Farm Clerks.	
100	210
80	175
70	160
60	150
50	125
40	90
30	80
Dairy Farm Clerks.	
200	310
190	300
180	295
170	285
160	280
150	260
140	250
135	245
130	240
125	235
120	230
115	225
110	220
105	215
100	210

Substantive pay.	Consolidated pay including field batta.
Dairy Farm Clerks—concld	
100	210
95	200
90	195
85	185
80	175
75	165
105 fixed ...	215
100 " ...	210
90 " ...	195
70 " ...	160
50 " ...	125
40 " ...	90
30 " ...	80

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 390 of 1918.

SIMLA,
23rd April 1918.

390. Outfit allowance for British Service officers transferred from one unit to another.

It has been decided that the provisions of Army Council Instruction No 1263 of 1917, republished as an annexure to this Instruction, shall be applied to India and all Indian Expeditionary Forces so far as British Service officers are concerned

2 In the case of officers in the field, claims should be submitted direct to the War Office, through the General Officer Commanding the Force. In the case of officers serving in India, claims should be submitted direct to the War Office through the General officer Commanding the Division or Independent Brigade.

[02383 (A.G.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

ANNEXURE TO ARMY INSTRUCTION (INDIA) No. 859 OF 1918.

Copy of Army Council Instruction No. 1263 of 1917.

WAR OFFICE,
14th August 1917.

1263. Outfit Allowance for officers transferred from one unit to another.

1. Where an officer has been transferred from one unit to another in the interests of the service otherwise than at his own request, claims for a grant to cover any expenditure on alterations of uniform will be considered where the change involves a necessary expenditure exceeding £2. Where, as in the case of officers transferring from English to Scottish units, the tunic is of different pattern but admits of alteration to the new pattern, a claim will not be admitted for more than one *new* tunic and for the alteration of one old one.

2. All claims should be submitted to the War Office through the G. O. C.-in-C. and should be supported by receipted bills and a certificate that the transfer was not at the officer's own request.

3. No grant will be admissible for officers who have received an outfit allowance of £100 or more, nor for officers commissioned to the regular army prior to the 5th August, 1914.

48/Gen. No./3534 (F. 2).

By Command of the Army Council,

R. H. BRADE.

[Copies for all G.Os.C.-in-C. and G.Os C. at home and abroad.]

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 391 of 1918.

SIMLA,

23rd April 1918.

391. Pay and allowances for officers and men coming from Mesopotamia to India on leave.

In supersession of India Army Order No 744 of 1916, it has been decided that the following emoluments shall be drawn while in India by all ranks granted special war leave from Mesopotamia:—

(*a*) *British Officers*.—Full pay and ordinary allowances.

(*b*) *Regimental warrant officers, non-commissioned officers and men of the British Army*.—Ordinary pay and allowances drawn by them in Mesopotamia, *plus* a special allowance of three annas per diem; they will, however, receive the ordinary peace ration while in India.

(*c*) *Departmental officers with honorary rank, warrant officers and non-commissioned officers of the Unattached List (including members of the Indian Subordinate Medical Department)*.—Ordinary rates of pay, *plus* the field service concessions admissible under the under-mentioned regulations, where these concessions were drawn by them in Mesopotamia:—

(*i*) Paragraphs 412, 440, 456(*b*), 467, 576 and 907, Army Regulations, India, Volume I.

(*ii*) Paragraph 42, Army Regulations, India, Volume XII.

(*iii*) Appendix VII. Supply and Transport Manual, War.

(*iv*) India Army Order No. 364 of 1915.

(*d*) *Indian ranks.*—Ordinary pay and allowances retaining the batta admissible while in Mesopotamia under paragraph 971, Army Regulations, India, Volume I. In addition, they will be granted a ration allowance as under:—

(*i*) Rs. 3-8-0 per mensem for fighting men.

(*ii*) Rs. 2-8-0 per mensem for followers.

2. In the event of officers in receipt of British pay and allowances being granted leave from Mesopotamia to India, field allowance and the special allowances (lodging, fuel and light) granted under War Office Army Order No. 501 of 1914, will be inadmissible.

3. The expenditure involved is debitable to His Majesty's Imperial Government and should be passed to the Central War Controller for adjustment.

[02079 (A.G.) / R]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 392 of 1918.

SIMLA,
23rd April 1918.

392. Measures for the training of officers intended for duty with Mule, Pony and Bullock Transport.

Sanction is accorded to the following proposals in connection with the special training of officers attached to the Supply and Transport Corps, who have, under present conditions, to be employed in transport corps:—

(a) A Second Instructor will be appointed under the general control of the Commandant and Chief Instructor, Supply and Transport Corps Training Establishment, Rawalpindi, and placed in charge of a special class for the instruction of officers who are intended for duty with Mule, Pony and Bullock Transport.

(b) A complete mule corps will be placed at his disposal in a station to be selected by the General Officer Commanding, Northern Command, and a special syllabus of instruction will be laid down, to cover a course of three months' duration, in which every officer shall be thoroughly trained so as to make him conversant in detail, both practical and theoretical, with the duties of all ranks of a transport unit.

(c) The courses of instruction now carried out at the Supply and Transport Corps Training Establishment, Rawalpindi, are in no way modified by these orders. The arrangement now sanctioned is temporary and will be limited to the number of courses necessary to carry out instruction to the extent considered necessary by His Excellency the Commander-in-Chief.

2. The officer appointed as Instructor for the special purpose now approved shall receive an allowance of Rs. 100 per mensem together with exchange compensation allowance, in addition to his other emoluments as a Supply and Transport officer.

3. The extra expenditure involved is debitable to the ordinary grant and head of account affected.

[949 (Q.M.G.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 393 of 1918.

SIMLA,

23rd April 1918.

393. Organisation and employment of additional Indian Reserve Garrison Companies.

Sanction is accorded to the organisation of additional Indian Reserve Garrison Companies, for attachment to units and depôts in India when raised under the orders of the Government of India and for employment, under the orders of His Excellency the Commander-in-Chief in India, in accordance with the following conditions :—

(I) The strength of a company will be:—

2 Subadars.

2 Jemadars.

10 Havildars.

10 Naiks.

228 Sepoys (including 4 buglers).

(II) All ex-soldiers, including reservists, whether discharged or pensioned, will be eligible for enlistment provided they bear a good character and are medically fit for service in India. Ex-non-commissioned officers may be engaged as privates if no vacancies exist for them as non-commissioned officers. Men will be enrolled for the period of the war and for service in India only. They will be enrolled and attested on the *special form prescribed for Indian Garrison companies.

* *Vide* Annexure III of Army Department letter No. H.-2607, dated the 6th May 1916, communicated to all Controllers of Mili-

(III) Men will be entitled to pay of the rank in which they are employed, at Indian Infantry rates, *plus* all ordinary allowances and good service and good conduct pay as drawn when they left the service. Non-commissioned officers employed as sepoys will receive good conduct pay according to previous service as if they had remained sepoys.

(IV) Pension will continue in addition to pay.

(V) Clothing will be drawn on the scale and under the conditions specified in Annexure I to this instruction.

(VI) Leave will be granted as admissible to other Indian soldiers.

(VII) Followers will be entertained on the scale admissible for Indian Infantry.

(VIII) The following company allowances will be admissible:—

(*i*) An initial grant of Rs. 80 to cover the cost of the purchase of books and stationery.

(*ii*) A monthly allowance of Rs. 40.

These allowances will be drawn on the following conditions:—

(*a*) The initial allowance when the company is started.

(*b*) Half the monthly allowance when 50, and the full allowance when 100 men have been enrolled in the company.

(*iii*) The officer placed in charge of the company will be entitled to staff pay as company commander.

This staff pay will not be granted until the strength of the company exceeds 125 men.

2. Special orders regarding the adjustment of expenditure, etc., will be issued to all concerned when such companies are raised.

[32006 (A. G.) / E.]

A. H. BINGLEY, *Major-General*,
Secretary to the Government of India.

ANNEXURE "I."

Scale of clothing for Indian Reserve (Garrison) Companies.

Articles	* Scale to be maintained.	Period of duration.	REMARKS
1. Great coat or coat warm troops	1	3 years.	
2. Khaki frock or blouse complete with buttons.	2	9 months.	
3. Khaki knickerbockers .	2	9 months.	
4. Boots, ankle	2	9 months.	
5. Putties	1	6 months.	
6. Socks or foot bandages .	2	3 months.	To be supplied from the Army Clothing Department.
7. Puggri	1	6 months.	
8. Kullah if worn ..	1	6 months.	
9. Shoulder pad, Khaki ...	1	6 months.	
10. Haversack	1	1 year.	
11. Bag, kit, universal ...	1	3 years.	
12. Water-bottle ..	1	3 years.	
13. Blanket	1	1 year.	
14. Suits, underclothing ...	2	1 year.	To be supplied under regimental arrangements.
15. Numerals, shoulder .	1	3 years.	
16. Blanket ...	1	..	
17. Jersey	1	...	To be issued at the discretion of General Officers Commanding
18. Pyjamas, warm ...	1	...	

* An allowance of Rs. 0-8-0 for each man per mensem is also authorised for the provision of such small articles of necessaries in addition to the above as m

made

peric

the wa ... credited to the State.

[...

GOVERNMENT OF INDIA.

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 394 of 1918.

SIMLA,

23rd April 1918.

394. Revised War Establishments of supply units of the Supply and Transport Corps.

In consequence of the re-organization of Supply and Transport Corps units, sanctioned in Army Department letter No. 10770, dated 21st July 1917, as modified by Army Instruction, India, No. 7 of 1918, and with a view to facilitating mobilisation and assimilating peace and war procedure, it has been decided to revise the War Establishments for supply units as shown in the Appendix to this instruction

2. The main features of the revision are :—

(i) a change in the nomenclature of units ;

(ii) a re-adjustment of the existing War Establishments under the new nomenclatures

3. War Establishments, India, (Provisional), 1916, issued under India Army Order No. 384, dated 12th June 1916, will be amended in due course.

[1064 (Q.M.G.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India

A Cavalry Brigade Supply Troop.

Detail.	PERSONNEL. British. Officers	PERSONNEL. British. Non-commissioned Officers.	PERSONNEL. Indian. Superior Indian Personnel.	PERSONNEL. Indian. Public Followers.	PERSONNEL. Indian. Private Followers.	ANIMALS. Horses.	ANIMALS. Ponies.	ATTACHED TRANSPORT. Drivers.	ATTACHED TRANSPORT. Draught Mules.	Army Transport Carts.
Officer (a) ...	1	...	...	...	2½	2			...	...
Non-commissioned Officers	...	(b) 4		...	6	...	4	...	...	...
Clerk ...	...	...	1	...	½	...	...	...	...	...
Agents	...	...	2	...	1	...		...	...	...
Treasurer	...		1	...	½	...	...		...	...
Interpreter ...	...	...	1	...	½	...	...	...	...	...
Peons	...	...	...	2	...	...	...		...	...
Weighmen ...	...	...	...	6	...	...	...	...	...	...
Tinsmith ...	...	...	...	1	...	...	...	...	...	...
Cooper	...	...	...	1	...	...	...	...	...	...
Packers ...	...	...	...	2	...	...	...	...	...	...
Coolies ...	...	...	...	4	...	...	...	...	...	...
Bhisti ...	...	...	...	1	...	...	...	...	...	...
Sweepers ...	...	...	...	2	...	...	...	...	...	...
Attached Transport.	...	...	...	...	...	...	...	5	10	5
Total (c) ...	1	4	5	19	11	2	4	5	10	5

REMARKS.

(a) Brigade Supply Officer.

(b) 2 permanent Supply and Transport Corps N. C. O's.
2 temporary S. and T. Corps N. C. O's.

(c) If a Cavalry Brigade, includes more than 1 British regiment, add for each regiment so included:—

Agent, 2nd Class	1
Peon	... 1
Weighman	... 1
Packer	... 1
Coolies	... 2
Total	... 6

Composition in detail of a Divisional Supply Column.

Detail.	PERSONNEL. British. Officers.	PERSONNEL. British. Non-Commissioned Officers.	PERSONNEL. Indian. Superior Indian personnel.	PERSONNEL. Indian. Public followers.	PERSONNEL. Indian. Private followers.	ANIMALS. Horses.	ANIMALS. Ponies.	ATTACHED TRANSPORT. Sarwans.	ATTACHED TRANSPORT. Camels.	REMARKS.
Headquarters—										
Officers ..	3	.	...		8	6	...		.	(*d*) Peons ... 2
Clerks .	...		2		1	..	.	...	...	Cooly ... 1
Public followers ..	..	.	.	(*d*) 5	.		...	.	...	Bhisti ... 1
										Sweeper 1
Total ...	3	..	2	5	9	6	...	...	...	5
Brigade (or Divisional Troops) Supply Section—										(*e*) Brigade Supply Officer or Supply Officer Divisional Troops.
Officer ..	(*e*) 1	...	...	...	2½	2	...	...	...	
Non-commissioned officers.	...	(*f*) 4	...	.	6	...	4	...	...	(*f*) 2 permanent S. and T. Corps N.C Os.
Clerk ...	...	..	1	..	½	...	...	...	...	2 temporary S. and T. Corps N. C Os.
Agents ...	...		2	...	1	...	...	...	..	
Treasurer ...	...	...	1	...	½	...	...	...	..	
Interpreter...	...	.	1	..	½	...	...	...	...	
Peons ...	...	.	...	2	...	...	...	...	...	
Weighmen ...	...	...	...	6	...	...	...	...	...	
Carried over ..	1	4	5	8	11	2	4	...	...	

FIELD UNITS.

A DIVISIONAL SUPPLY PARK.

Detail.	PERSONNEL. British. Officers.	PERSONNEL. British. Warrant Officers.	PERSONNEL. British. Non commissioned Officers.	PERSONNEL. Indian. Superior Indian personnel.	PERSONNEL. Indian. Public Followers.	PERSONNEL. Indian. Private followers.	ANIMALS. Horses.	ANIMALS. Ponies.	ATTACHED TRANSPORT. Sarwans.	ATTACHED TRANSPORT. Camels.	REMARKS.
Headquarters	1	1	...	3	9	6	2	1		..	
Four Sections ...	...		4	4	24	8	...	4	...	...	
Attached Transport ...							...	.	6	24	
Total ...	1	1	4	7	33	14	2	5	6	24	

COMPOSITION IN DETAIL.

Detail.	Officers.	Warrant Officers.	Non commissioned Officers.	Superior Indian personnel.	Public Followers.	Private followers.	Horses.	Ponies.	Sarwans.	Camels.
HEADQUARTERS.										
Supply Establishment.										
Officers ...	1		...	..	...	$2\frac{1}{2}$	2	...	...	...
Warrant Officers ...	...	1	...	...	...	$1\frac{1}{2}$	...	1	.	...
Clerks	...		...	1	...	1	..	...	...	..
Treasurers ...	..	..	..	1	.	$\frac{1}{2}$	..	..	...	.
Interpreters	...	...	.	1	..	$\frac{1}{2}$	...	..	...	.
Public Followers (a) ...	...	...		...	9	.	...	...	...	...
Total ...	1	1	...	3	9	6	2	1	...	...
Section.										
Non commissioned Officers	...	...	1	...	...	$1\frac{1}{2}$	..	1	...	...
Clerks	...	..	.	1	...	$\frac{1}{2}$	...	...	...	...
Public Followers (a) ...	...	...	...	.	6	...	...	.	...	...
Total ..	...	...	1	1	6	2	...	1	...	..

Remarks:

	Headquarters	Section.
(a) Peons ...	1	1
Weighman ...	1	1
Tinsmith ..	1	...
Cooper ...	1	...
Packers ...	2	...
Coolies ...	2	4
Sweeper ..	1	..
Total ...	9	6

LINES OF COMMUNICATION UNITS.

A Supply Depot at { Base. Regulating Station. Railhead. Main Depot. *Field Depot.* }

Supply Depots are formed by allocating varying numbers and proportions of these units to the various types of Depots.

Detail.	PERSONNEL.						ANIMALS.		REMARKS.
	BRITISH.			INDIAN.					
	Officers.	Warrant Officers.	Non-commissioned Officers.	Superior Indian personnel.	Public Followers.	Private Followers.	Horses.	Ponies.	
Headquarters (*A*)									
Officers ...	1	..	...	...	...	2½	2	...	(*A*) Allotted to Supply Depots as requisite.
Clerks ...	...	...	...	4	...	2	...	...	(*a*) Peons .. 2 Duftri ... 1
Interpreters ..	...	...	...	1	...	½	...	...	Total ... 3
Public followers(*a*)	...	...	...	...	3	...	...	...	
Total ...	1	...	...	5	3	5	2	...	
Supply Depot Section (*A*).									
Officers ...	1	...	...	...	...	2½	2	...	(*A*) Allotted to Supply Depots, as requisite.

Detail.	PERSONNEL. British. Officers	British. Warrant Officers.	British. Non-Commissioned Officers.	Indian. Superior Indian personnel.	Indian. Public Followers.	Indian. Private Followers.	ANIMALS. Horses.	ANIMALS. Ponies.	REMARKS.
Supply Tally Section (A —									
Officers	1	...				2½	2	..	(A) Allotted to Supply Depôts as requisite.
Warrant or non-commissioned officers	..	..	1	..	...	1½	.	1	
Clerks	..	.		8		4	..	..	
Tally Clerks	...	.	...	10	.	5	.	..	
Peons	...		..		10	..	...	...	
	1	..	1	18	10	13	2	1	

A SUPPLY DEPÔT WORKSHOP SECTION.

Composition in detail.

Detail.		Officers	Warrant Officers	Non-Commissioned Officers	Superior Indian personnel	Public Followers	Private Followers	Horses	Ponies
Head quarters.	Officer	1	...	...	.	...	2½	2	...
	Clerk	..	...	...	1	.		..	...
2 Sub-sections.	...	..	...	...	..	14		...	...
Warrant Officer in charge.	Warrant Officer	..	1	..	...		1½	..	1
	Clerk	...	...	...	1	...	½	...	...
2 Sub-sections.	...	...	...	...	...	14	...	...	...
		1	1	...	2	28	5	2	1

Detail of a Sub-Section.

Detail.	Officers	Warrant Officers	Non-Commissioned Officers	Superior Indian personnel	Public Followers	Private Followers	Horses	Ponies
Cooper (or Carpenter ...	...	...	...	.	1	...	..	...
Tinsmith ...	...	...	...	...	1	...	...	...
Blacksmith ..	...	...	...	...	1	...	...	...
Hammerman ...	...	...	..	...	1	..	...	...
Bellowsboy ...	...	...	...	...	1	...	...	...
Packer .	..	...	..	...	1	...	...	...
Cooly .	...	...	...	...	1	...	...	..

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 395 of 1918.

SIMLA,

23rd April 1918.

395. Improvement of status and conditions of service of non-commissioned officers and bearers of the Army Bearer Corps.

With the approval of the Right Hon'ble the Secretary of State for India, the Government of India sanction, with effect from the 17th January 1918, the grant of the following concessions to non-commissioned officers and men of the Army Bearer Corps:—

(1) *Wound and injury pensions* will be admissible at rates less than those authorised * for combatants as noted below:—

* Army Regulations, India, Volume I, paragraph 1061, as amended by I A O 51 of 1917.

(a) Havildars—Re. 1 less than combatant havildars.

(b) Lance-havildars—Re. 1 less than combatant naiks.

(c) Naiks, lance-naiks and bearers—Re. 1 less than sepoys.

(2) *Family pensions* will be allowed on the following scales:—

Havildars—Re. 1 less than combatant havildars.

Lance-havildars—8 annas less than combatant naiks.

Naiks, lance-naiks and bearers—8 annas less than sepoys.

(3) *Leave and furlough* will be granted under the rules laid down for combatants, *vide* Army Regulations, India, Volume II, paragraph 264 *et seq* The number of men allowed leave at the same time under paragraph 264-A will be regulated by paragraph 264.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 396 of 1918.

SIMLA,

10th April 1918.

Payment issues of ration articles to regimental and other recognised institutes.

It has been decided that, under the sanction of the Divisional [illegible]mmander, the management of any regimental or other recog[illegible]sed institute catering for British soldiers, may be permitted to [illegible]tain on payment from the Supply and Transport Corps articles [illegible] rations required for *bona fide* sale to British soldiers. Before [illegible]cording sanction to the issue of articles on payment, the Divi- [illegible] concession he is [illegible] will not be used [illegible] institute. This [illegible] is subject [illegible] extra expenditure to the State will thereby be entailed. Army Regulations, India, Volume V, will be amended in due course.

[illegible] (Q. M. G.).]
D.

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 398 of 1918.

SIMLA,
30th April 1918.

398. Rate of pension to be admitted to Indian officers discharged under clause (1) of India Army Order 478 of 1914 on completion of 18 years service, with 3 years' service in the rank of havildar and jemadar

It has been decided that in such cases the rate of pension shall be regulated by Note 5 to paragraph 1044-A, Army Regulations, India, Volume I. For instructions regarding cases warranting special treatment, see India Army Order 141 of 1917.

[02976 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 397 of 1918.

SIMLA,

30th April 1918.

397. Detention allowance under paragraph 255, Army Regulations, India, Volume I.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 399 of 1918.

SIMLA,

30th April 1918.

399. Charge allowance for British ranks of the Supply and Transport Corps employed with supply units under formation and training in India prior to despatch overseas.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 400 of 1918.

SIMLA,

30th April 1918.

400. Cessation on re-marriage of the special allowance of Rs. 200 per mensem granted to officers' widows who are detained in India.

With reference to India Army Orders No. 1036 of 1917 and No. 7 of 1918, it has been decided that the special allowance of Rs 200 per mensem, granted to the widows of officers who are detained in India owing to the restriction of passages to the United Kingdom and the Colonies, shall cease on re-marriage with effect from the day following that on which the re-marriage takes place.

2. The same rule will apply, if she marries, in the case of a daughter specially granted the allowance.

[02629 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No 402 of 1918.

SIMLA,
30th April 1918.

402. Indian War Memorial.

It has been decided to authorise the Committee of the Indian War Memorial to address correspondence on the subject of the Indian War Memorial direct to all military officers serving under the Government of India, and to the General Officers Commanding, Mesopotamian Expeditionary Force, Egyptian Expeditionary Force and East African Expeditionary Force.

[49915 (A.G.) / C.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 401 of 1918.

SIMLA,

30th April 1918.

401. Addition of one British officer to the establishment of animal transport units of the Supply and Transport Corps.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 404 of 1918.

SIMLA,

30th April 1918.

404. Issue of durries to Indian units of the Indian Defence Force for use at musketry training.

Sanction is accorded to an initial free issue of durries at the rate of 50 per unit, to Indian units of the Indian Defence Force, for use during musketry training. The articles should be maintained at the expense of these units.

2. The cost involved which is estimated at Rs. 1,371-1-6 initial will be debitable to the ordinary grant and head of account.

[431 (Q. M. G.). / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 406 of 1918.

SIMLA,

30th April 1918.

406. Grant of increased allowances for the provision and maintenance of the necessary sandbags, poles, wire, string and other miscellaneous stores required for practising bayonet fighting.

Sanction is accorded to the allowances referred to in India Army Order No 1117 of 1917 being increased, in the case of the following units, from Rs. 80 to Rs. 100 initial, and from Rs. 5 to Rs. 10 per mensem recurring .—

British Cavalry regiments and depots.
Inland and coast defence companies of Royal Garrison Artillery.
British Infantry battalions.
Indian Cavalry regiments and depots.
Frontier Garrison Artillery.
Indian Infantry battalions and depots, including training depots.
Battalions of the Nepalese Contingent.
Headquarters of each corps of Sappers and Miners.

In the case of detached companies, Sappers and Miners, the allowances are increased from Rs. 40 to Rs. 50 initial, and from Rs. 3 to 5 per mensem recurring.

2. As regards British Infantry Reserve battalions the allowance admissible will be Rs. 50 initial and Rs. 5 per mensem recurring, for each overseas Battalion dependent on them.

3. The additional expenditure involved is estimated at Rs. 7,660 initial and Rs. 21,276 recurring per annum, and should be adjusted in the same way as other charges of the units and depots.

[18457 (C.G.S.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 408 of 1918.

SIMLA,

30th April 1918.

408. Additional British non-commissioned officers for Machine Gun Companies.

In order to deal with the training and administration of British ranks who are in excess of the peace establishment in Machine Gun Companies, it has been decided that the following proportion of non-commissioned officers shall be admissible for each company :—

1 Sergeant for every 70 men.
1 Corporal for every 60 men.
1 Lance Corporal for every 40 men.

2. This proportion will be in addition to the peace establishment of non-commissioned officers and vacancies will be completed by acting promotions when supernumerary non-commissioned officers are not available.

[04184 (A.G.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

A[illegible]TION (INDIA)

No. 409 of 1918.

SIMLA,
30th April 1918.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 410 of 1918.

SIMLA,

30th April 1918.

410. Pay of men drawn from military units for employment on railways in Mesopotamia.

It has been decided that, subject to paragraph 2 below, men drawn from military units and employed on railways in Mesopotamia shall, while so employed, receive, in the case of British or Anglo-Indian soldiers, pay of rank at the rates laid down for soldiers of the Royal [illegible] Engineer pay under paragraphs 672 [illegible] Volume I; and, in the case of Ind [illegible] men serving in Sappers and Miners, and working pay under paragraphs 941-946, Army Regulations, India, Volume I. Army Department letter No. 39170-3 (A.G.-4), dated the 2nd May 1917, is accordingly hereby cancelled.

2. Men from military units already serving with railways in Mesopotamia shall, unless serving under a specific agreement, be paid at these rates. Those serving under definite conditions may continue under those conditions until the expiry of their contracts, after which they will be paid at the above rates.

[43706 (A.G.).
B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 411 of 1918.

SIMLA,
30th April 1918.

411. Supply of Chlorine Apparatus for use of Sanitary Sections, Advanced Depots Medical Stores, Divisions and Independent Brigades.

Sanction is accorded to the supply to the units, etc., mentioned below on the scale noted against each of Chlorine Apparatus of the pattern manufactured at the Medical Store Depôt, Lahore Cantonment, for use on service, manœuvres, training, etc. :—

Mobilisation equipment.

Sanitary Sections	... 2 per section.
Advanced Depôts Medical Stores	...12 per depôt.

Peace equipment.

Divisions ..	... 12 per division	To be stored in hospitals selected by D.D.M.S./A.D.M.S. for issue to troops proceeding on service, training, etc, at a scale ordinarily not exceeding one per regiment or battery.
Independent Brigades ...	6 per brigade	

Spare ... ... 24 to be maintained at Medical Store Depôts under the orders of the Director General, Indian Medical Service.

2. The expenditure involved, which is estimated at Rs. 6,900 initial and Rs. 690 annual recurring, is debitable to the grant and head of account concerned in the Army Estimates.

3. Army Tables, Medical, and Mobilisation Store Tables will be amended in due course.

[1575 (Q. M. G.) / D.]

A. H. BINGLEY, *Major-General,*

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)
No. 412 of 1918.

SIMLA,
30th April 1918.

412. British motor cyclist despatch riders and artificers of the signal service—Qualifications for Engineer pay.

In supersession of the instructions contained in paragraphs 2 and 4 of India Army Order No. 1404, dated the 24th December 1917, it has been decided that the qualifications necessary for British motor cyclist despatch rider to obtain the proficient (1s.) rate of engineer pay as such and to be mustered as a sapper, shall be as shown in Annexure A to this Instruction

2. In order to qualify for engineer pay at the rate of 1s. 4d. per day, and to be mustered as a sapper, a motor cycle artificer must qualify as a proficient despatch rider and pass the tests as shown in Annexure B to this Instruction.

3. The foregoing is not applicable to men who were rated prior to the date of this Instruction.

[51717 (A. G.). / U.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

ANNEXURE "A."

QUALIFICATIONS OF BRITISH MOTOR CYCLIST DESPATCH RIDERS FOR THE PROFICIENT (1s) RATE OF ENGINEER PAY.

Theoretical.

1. To have passed a written examination in—

(a) Map reading and squared maps (very high standard required).

(b) Theory of petrol Engine and Magnetos.

(c) Running repairs to W. D. Triumph and Douglas motor cycles and tyres.

(d) General Army organization.

(e) Signal Service organization in detail.

Practical.

2. To have passed a practical examination in—

(a) Riding W. D. motor cycles (very high standard required).

(b) Roadside and ordinary light motor cycle and tyre repairs.

3. To have passed a practical test in map reading in conjunction with motor cycling.

4. To have qualified in drill.

5. To have passed a revolver course.

ANNEXURE "B."

QUALIFICATIONS OF MOTOR CYCLE ARTIFICERS FOR THE SKILLED (1s. 4d.) RATE OF ENGINEER PAY.

To qualify for the above mentioned rate of engineer pay, a motor cycle artificer must qualify as a proficient despatch rider and pass the following tests :—

Theoretical.

A written examination on—

(a) The operation of any part of the mechanism of a Douglas or Triumph motor cycle—such as Douglas gear box, magneto drive, oiling system, wheel bearings, Triumph decompressor, front forks, petrol valve.

(b) A description of the internal combustion engine (four stroke) explaining the function of the valves, carburettor, magneto, etc., and giving suitable timing for valves and ignition.

(c) Describing the parts most likely to wear and require renewal or adjustment—

1. Engine.

2. Cycle parts.

Practical.

A. To be given a motor cycle badly in need of repair to engine and cycle parts and to put same in thoroughly sound order

B. To locate general faults, such as loose timing studs, play in spring fork pins (Douglas), broken or worn piston rings, worn bearings, wrongly adjusted gears.

C. To vulcanize burst tube.

D. To braize a simple joint.

E. To solder Bowden control wire, tank, etc.

F. To use special tools such as expanding reamer, scraper, valve seat cutter, etc.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 413 of 1918.

SIMLA,

30th April 1918.

413. Procedure as regards the requisitioning, etc., of buildings under the Defence of India (Consolidation) Rules, 1915.

The attached instructions as to the procedure to be adopted in requisitioning buildings under the Defence of India (Consolidation) Rules, 1915, and their maintenance, etc., when requisitioned, are published for the information and guidance of all concerned.

[34380 (Q.M.G.-3). / C.]

A. H BINGLEY, *Major-General,*

Secretary to the Government of India.

PROCEDURE AS REGARDS THE REQUISITIONING ETC., OF BUILDINGS UNDER THE DEFENCE OF INDIA (CONSOLIDATION) RULES, 1915.

REQUISITIONING.

Every endeavour should be made to avoid resorting to the Defence of India (Consolidation) Rules for obtaining buildings for war purposes. When, however, occasions arise where private negotiations on a reasonable basis fail, and it is considered essential to acquire compulsorily a building required for war purposes, a representation should be made to the Quartermaster-Geneneral in India with a view to the sanction of the Government of India being accorded to action being taken under Rule 11-C (1) of the rules referred to above. Full particulars should be given at the time as to the building it is proposed to requisition and the purpose for which it is required.

The views of the Local Government or Administration concerned should be obtained and recorded when forwarding proposals.

MAINTENANCE.

When a building has been requisitioned under the Defence of India (Consolidation) Rules, it will be taken over by the Military Works Services and will be treated by them in the same manner as if it were a Government military building.

The local Military Works Services will be responsible for its maintenance and repairs, and for the payment of the taxes from the date that it is taken over. They will also pay the premia necessary to maintain any fire insurance on the building in existence when it is taken over.

Where there is no local Military Works Services such buildings will be taken over and maintained in a like manner by the local Public Works Department.

The Military Works Services, or the Public Works Department, as the case may be, should ensure that requisitioned buildings are, as far as possible, maintained in as good a condition as when taken over.

COMPENSATION.

The requisitioning authority should call upon the owner of a requisitioned building to submit a claim for compensation. On receipt of the claim he should consider whether the amount claimed

is just and reasonable, having regard to the normal rent of the building and any direct loss the owner may sustain, owing to the building having been taken over by Government, and to the fact that the building is being maintained by Government. The claim should then be forwarded to the Quartermaster-General in India, with an expression of opinion as to whether the amount demanded is reasonable, or not The requisitioning authority will, at the same time, submit the name of an individual who, he considers, would be a suitable arbitrator, in the event of Government proceeding to arbitration. The person recommended should be one who has expert knowledge of the subject, in accordance with Rule 11-C (2) of the Defence of India (Consolidation) Rules, and the recommendation must be agreed to by the Local Government or Administration concerned.

If, for the settlement of compensation to be paid to the owner of a requisitioned building, recourse is had to arbitration, the attention of the arbitrator should specially be drawn to the fact that the building is maintained, repaired, and insured, as the case may be, at the expense of the State, and that the taxes are also met by the State

Assessment of Rent.

Officers and others who are not entitled to be provided with [illegible] when occupying requisitioned [illegible] be charged rent assessed in [illegible] Regulations, subject to the [illegible]

If a requisitioned building is utilised as an office, the question whether the occupying department should be required to pay rent, and the manner in which rent, if any, shall be assessed and paid, shall be determined as if the building were a military building, the property of Government.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 414 of 1918.

SIMLA,

30th April 1918.

414. School of Instruction for temporary officers of the Indian Medical Service

It has been decided to establish at Rawalpindi, for the remaining period of the war, a school for the instruction of temporary officers of the Indian Medical Service. Details of the scheme are shown in the appendix to this order.

2. All expenditure connected with the school will be debited to His Majesty's Government through the Controller of War Accounts

[31048 (D.M.S.) / D.]

A. H BINGLEY, *Major-General,*

Secretary to the Government of India.

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APPENDIX TO ARMY INSTRUCTION (INDIA), No. 414 OF 1918.

SCHEME FOR THE FORMATION OF A SCHOOL OF INSTRUCTION AT RAWALPINDI FOR TEMPORARY OFFICERS OF THE INDIAN MEDICAL SERVICE.

(1) *Location and designation.*—The school will be formed at Rawalpindi and designated "School for Instruction of Temporary Officers, Indian Medical Service."

(2) *Duration of course.*—There will be 3 sessions in the year, *viz.*, 1st May to 31st July; 1st October to 31st December and 15th January to 14th April.

(3) *Size of class.*—All temporary officers engaged in future will join the school in the first instance. Those who have already been employed will undergo a course of instruction when they can be spared. 12 to 15 officers of each category will, it is anticipated, be available and each class will thus consist of 24 to 30 officers.

(4) *Accommodation.*—The school will be accommodated in E. P. tents.

(5) *Pay and allowances of officers while under training.*—Pay admissible under contract, while serving in India with detention allowance at the rate of Rs. 5 per diem for the first thirty days of the course and at the rate of Rs. 3 per diem for a further period of twelve days. The detention allowance will not be admissible for any day for which travelling allowance is drawn.

(6) *Syllabus.*

Drill and physical exercises.

Discipline.

Medical organization in military hospitals in peace.

Principles governing medical charge of troops.

Duties of medical officers in connection with effective troops in quarters, camps, etc.

Military organization.

Practical sanitation and demonstrations in divisional laboratory.

Special lectures and demonstrations—

Venereal diseases.

Skin diseases.

Eye diseases.

Ear diseases.

Physical training.

Equitation (to be entirely voluntary).

At the conclusion of each session, the class will visit the War and Mayo Hospitals at Lahore and the hospitals and other medical institutions at Dehra Dun. On completion of the course temporary officers will join the appointments to which posted.

(7) *Equipment*.—A sum of Rs. 1,500 is allotted for the purchase of the equipment noted below:—

Three microscopes with all the accessories for carrying out general, clinical, bacteriological, and haematological examinations; magic lantern and screen; cabinet of slides of tropical disease; urinometers; blackboards; diagrams, etc.

For the maintenance of this equipment and the purchase of such additional equipment as may be required a sum of Rs. 375 per annum will be allowed.

For the provision of a library containing books of reference an allotment of Rs. 600 initial and Rs. 150 per annum recurring is authorised.

(8) *Staff*.—The following staff is authorised throughout the year:—

1 Commandant (Lieutenant-Colonel or Major, Indian Medical Service) on a staff pay of Rs. 200 per mensem in addition to grade pay. When the Commandant is a Lieutenant-Colonel his emoluments will not be less than Rs. 1,250 per mensem.

1 Adjutant (Captain, Indian Medical Service) on a staff pay of Rs. 100 per mensem in addition to grade pay.

1 Drill serjeant with extra duty pay at Rs. 15 per mensem.

1 Soldier-clerk with extra duty pay at Rs. 10 per mensem.

1 Chaprassi at Rs. 9 per mensem.

(9) *Office allowance*.—Rs. 25 per mensem will be allowed for the period during which classes will be held.

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GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 415 of 1918.

SIMLA,
30th April 1918.

415. Organisation of certain new Indian Infantry Battalions formed of detachments from units on field service.

Sanction is accorded to the raising of certain new Indian Infantry Battalions formed of detachments from Indian Infantry Battalions on field service.

2. The organisation of the battalions and depots to be formed is detailed in the annexed scheme.

3. Separate orders will be issued to the units and depots concerned.

[04681 (A. G.). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

SCHEME FOR THE FORMATION OF SPECIAL INDIAN INFANTRY BATTALIONS.

1. The depots required for these new battalions will be formed, with the same organisation as the existing depots for regular units overseas, from a nucleus of Indian officers, non-commissioned officer instructors and recruits from the depots of units which have provided detachments. The ranks transferred from the parent depots must be of the same class as the ranks transferred from the parent battalion in the Field and, as soon as this class is known, it will be telegraphed to all concerned. In considering the numbers to be so transferred it is necessary that the parent depot shall not be denuded of recruits or instructors of the class detailed for the new battalion, as the parent battalion must eventually be in a position to replace men of the class detailed. As the new battalion will require drafts, recruits transferred must be classified in accordance with their respective periods of service, in order that a proportion of recruits may mature in each month.

2. Books and forms required will be supplied by the Superintendent, Government Printing, India and the Contractor for Printing Government of India Stock Forms, respectively, in accordance with India Army Orders No 1390 of 1917 and No. 9-S of 1918. Stationery will be purchased from the office allowance admissible under paragraph 243, Army Regulations, India, Volume I.

3. The grant of Rs. 10,000 will be admissible for each of the new battalions under the rules prescribed in Army Instruction (India), No. 61 of 1918.

4. All allowances admissible to ordinary depots will be admissible to the new depots. In addition, each new depot will receive an advance of Rs. 1,000 under the terms laid down in Army Instruction (India), No. 61 of 1918.

5. The requisite clerical establishment for the new depots will be provided by detailing clerks from parent depots, if not as a permanent measure, then on loan until new clerks can be trained.

6. The parent depots will, on receipt of telegraphic instructions from Army Headquarters, at once close the accounts of all men who are to be transferred, and hand over the accounts, as well as other documents of the men, in a complete condition, to the new depots in order that the later can commence at once the work of organising the depot on sound lines, and of training recruits for re-inforcements.

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GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 416 of 1918.

SIMLA,

7th May 1918.

416. Abolition of special patterns of khaki drill clothing for Indian personnel of the Transport Service.

It has been decided to abolish the special patterns of khaki drill clothing at present authorised for Indian ranks of the Transport Service. These ranks will, in future, be supplied with khaki drill suits, at existing scales,* as under:—

*India Army Orders Nos. 103 and 1300 of 1917.

(*a*) *Combatant ranks.*—Of the patterns authorised for corresponding combatant ranks of the Indian Army.

(*b*) *Followers.*—Of the pattern authorised for other followers.

2. The present patterns will be continued in wear until existing stocks are used up.

[35607 (Q.M.G.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 418 of 1918.

SIMLA,

7th May 1918.

418. Correspondence regarding medals and decorations.

In future all correspondence in connection with claims to, and replacements, etc., of, all descriptions of medals and decorations, including claims in respect of the War Badge and the "1914 Star," should be addressed to the Officer in Charge, Medal Distribution, Army Department, Calcutta, and not as hitherto to the Secretary to the Government of India, Army Department (Medal Section), Simla.

[14524 (A. D.). / Medals.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 417 of 1918.

SIMLA,

7th May 1918.

417. Concessions to civil sub-assistant surgeons and private practitioners of that class, who undertake liability for general service.

The following addition is made to Army Instruction (India) No. 128 of 1918 :—

"4. The concessions will be admissible with effect from the 27th December 1917, except that referred to in paragraph 1 (*ii*) which will be granted to all civil sub-assistant surgeons who have undertaken liability for general service since the beginning of the war."

[2312 (D.M.S.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 420 of 1918.

SIMLA,

7th May 1918.

420. Detention allowance to young officers who travel by special train or on warrant to their stations on completion of a course of instruction.

It has been decided, as a temporary measure for the period of the war, that detention allowance at the rate of Rs 3 for each complete 24 hours spent on the journey shall be admissible to young officers from Cadet Colleges and Schools of Instruction for Officers in India, who travel by special train or on warrant to their stations on completion of their courses of instruction.

[023386 (A. G.). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 419 of 1918.

SIMLA,

7th May 1918.

419. Date from which full staff pay may be admitted to officers of the Indian Medical Service returning to India from sick leave.

The orders contained in Army Instruction (India) No. 127 of 1918 are applicable to officers of the Indian Medical Service.

[1335 (D.M.S.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 421 of 1918.

SIMLA,
7th May 1918.

421. Free conveyance of motor cars on tour.

The General Officers, enumerated in Army Regulations, India, Volume III, Appendix XIV, and those for whom advances for the purchase of motor cars have been or may be specially authorised, are entitled, when travelling on inspection or other temporary duty, to the free conveyance by rail or river, of a motor car in lieu of two chargers. In cases where the General Officer in question is entitled to free conveyance for one charger only, but is accompanied by his staff officer, the said staff officer being entitled to the free conveyance of a charger, a motor car may be conveyed at the public expense in lieu of the two chargers taken collectively.

2. Army Regulations, India, Volume X, will be amended accordingly.

3. The extra expenditure involved is debitable to the ordinary grant and head of account affected.

[59 (Q.M.G.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 422 of 1918.

SIMLA;

7th May 1918.

422. Free supply of Army Books, and Army and India Army Forms to units of the Nepalese Contingents.

It has been decided that the orders in Army Department letter* No. 12810, dated the 6th November 1916, relating to the free supply of Army Books, and Army and India Army Forms, are applicable to units of the Nepalese Contingents with effect from the date of issue of that letter.

*Republished in India Army Order No. 870 of 1916.

[03754 (A.G.). / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 423 of 1918.

SIMLA,

7th May 1918.

423. Grant of warrant rank to Acting Serjeant-Majors (permanent staff) and to Regimental Quartermaster-Serjeants, Squadron-, Battery-, Troop-, and Company Serjeant-Majors of Indian Defence Force units.

It has deen decided that soldiers of the Indian Defence Force holding the [illegible] Quartermaster-Serjeant, Squadron- [illegible], shall be grantep the [illegible]

It has also been decided that Acting Serjeant-Majors of Indian Defence Force units (permanent staff) shall be appointed acting Warrant Officers, Class I.

Appointments and promotions may be made with effect from the date of this Instruction.

[41134 & 52202 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 424 of 1918.

SIMLA,

7th May 1918.

24. Grant of staff and extra duty pay to officers and non-commissioned officers employed as instructors at local physical and bayonet training classes.

It has been decided that the provisions of Army Department etter No 17541, dated the 26th November 1917, shall apply to fficers and non-commissioned officers employed at local physical nd bayonet training classes, with retrospective effect to cover the ases of those who have been so employed prior to the issue of this nstruction and since the date of the Army Department letter eferred to above.

[716 (G.S.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 426 of 1918.

SIMLA,
7th May 1918.

426. Grant of increase of pay and of the new rates of batta, when on field service, to salutris.

It has been decided that salutris who are combatants shall receive, at the rates admissible to dafadars and havildars, the increase of pay and field service batta sanctioned in Gazette of India Notification No. 3, dated the 1st January 1917, and India Army Order No. 534 of 1917. This decision has retrospective effect from the 1st January 1917.

[55989 (A.G.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 425 of 1918.

SIMLA,
7th May 1918.

425. Grant of acting rank to Officers Commanding certain depots.

In substitution of the orders conveyed in Army Department letter No. 17538, dated the 26th November 1917, the Government of India have decided that the acting rank of Captain in the case of Lieutenants, and Major in the case of Captains, with pay of those ranks respectively, shall be granted to Officers Commanding all Indian regimental and Followers Central depots, and depots of Porter and Labour Corps in India The rules contained in India Army Order No. 677 of 18th June 1917 should be applied when recommending officers for acting rank as above.

[53052 (A.G.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

ARMY INSTRUCTION (INDIA)
No. 427 of 1918.

SIMLA,
7th May 1918.

427. Grant of free passage to a relative of an Indian soldier to visit him when dangerously ill in hospital.

It has been decided that when the presence of a relative of an Indian soldier, who, as a result of illness or injury contracted on field service, has been invalided back to India and who is dangerously ill in hospital, is considered necessary by the medical authorities, free passage at Government expense will be admissible.

2. In such cases the Officer Commanding Hospital will telegraph to the relative that his or her presence is required at the hospital, and the cost of passage both for the outward and return journeys will be paid after arrival at the hospital.

[1170 (Q.M.G.)-D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 428 of 1918.

SIMLA,

7th May 1918.

428. Liability of acting serjeants employed with the Supply and Transport Corps to forfeitures from their consolidated salaries when placed in arrest or confinement or when under suspension.

It has been decided that the provisions of paragraph 460-A, Army Regulations India, Volume I, are applicable in the case of acting serjeants employed with the Supply and Transport Corps under the terms of India Army Order No 681 of 1914, and that a sum of Rs. 20 per mensem is liable to forfeiture from their consolidated salary, in the circumstances mentioned in paragraph 425-A., Army Regulations, India, Volume I.

[1452 (Q.M.G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 429 of 1918.

SIMLA,

7th May 1918.

429. Outfit allowance to officers of Colonial Forces appointed to the Indian Army or Indian Army Reserve of Officers from Expeditionary Forces.

It has been decided that officers of Colonial Forces appointed to the Indian Army or Indian Army Reserve from Expeditionary Forces shall receive as outfit allowance the difference between £70 (the combined allowance drawn by all officers of the British Service appointed to the Indian Army, *i.e.*, £50 *plus* £20; and the amount received for outfit from the Colonial Government, subject to a maximum of £50 in the case of officers selected for the Indian Army and £40 in the case of those selected for the Indian Army Reserve of Officers.

[02067 (A.G.-6) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 430 of 1918.

SIMLA,
7th May 1918.

430. Pay and allowances of British soldiers attached to the Supply and Transport Corps for duty.

It has been decided that the provisions of Army Instruction (India) No. 93 of 1918 are also applicable to non-commissioned officers and soldiers withdrawn from Territorial units and Garrison Battalions on field service for temporary employment with the Supply and Transport Corps.

[1706-Q.M.G. / D.]

H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 432 of 1918.

SIMLA,
7th May 1918.

432. Provision of dental treatment including dentures for men of Garrison Battalions.

Army Department letter No. 10644, dated 28th September 1916.

It has been decided that men of Garrison Battalions in India should receive free* dental treatment including the provision of dentures where such treatment will obviate their being valided to England

2. The expenditure involved will be debitable to His Majesty's Government, and should be passed to the Controller of War Accounts for adjustment.

[409 (D.M.S.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 431 of 1918.

SIMLA;

7th May 1918

431. Promotion of non-commissioned officers and men selected for duty at training establishments, cadet colleges, officers' school of instruction, musketry schools, etc.

It has been decided that, during the period of the war, non-commissioned officers and men on the Instructional Staff of the various training establishments may, if qualified, be promoted in their turn in their units, and will, on promotion, remain supernumerary therein while so employed. They should be absorbed in the first vacancies that occur after return to their units

2. It should be clearly understood that the promotion of non-commissioned officers and men to complete the establishment of a School of Instruction will carry acting rank only.

[0891 (A.G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 433 of 1918.

SIMLA,

7th May 1918.

433. Rules and allowances for marking blankets and clothing and necessaries of Indian troops and public followers in India.

It has been decided that the provisions of Army Instruction (India) No. 70 of 1918, regarding the marking of clothing and necessaries, and of Army Regulations, India, Volume II, paragraph 451-F., regarding the method of, and allowances for, marking blankets, shall apply to all Indian troops and public followers in India in receipt of free issues of clothing, necessaries and blankets in kind from the State.

[1103 (Q.M.G.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 434 of 1918.

SIMLA,

7th May 1918.

434. Write off of certain overpayments made to Officers Commanding Field Medical units on account of command allowance.

It has been decided to waive recovery of sums paid to Officers Commanding Field Medical units, on account of command allowance, prior* to the actual date of embarkation of such units for service overseas.

*Army Department letter No. 10167, dated 5th July 1917.

[20976 (D M.S.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 435 of 1918.

SIMLA,

7th May 1918.

435. Rate of engineer pay admissible to Royal Engineer Soldiers on furlough as a result of wounds or sickness contracted on field service.

It has been decided that, with effect from 4th August 1914, the provisions of paragraph 677, Army Regulations, India, Volume I, shall not apply to cases where Royal Engineer soldiers are on furlough as a result of wounds or sickness contracted on field service.

[44541 (A.G.-6)-B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 436 of 1918.

SIMLA,

7th May 1918.

436. Regimental staff pay admissible to officers of the Indian Army employed on the Home Establishment during the war.

The instructions contained in India Army Order No. 984 of 1917 are subject to the following additional proviso :—

An officer, who is lent to the Home establishment, will not be eligible for the staff pay of an appointment higher than that of his own substantive regimental appointment unless he is considered at the time fit in all respects to hold such higher appointment.

[02819 (A. G.)/B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 438 of 1918.

SIMLA,

7th May 1918.

438. Eligibility of members of the Indian Defence Force for the Volunteer Officers' Decoration and the Volunteer Long Service Medal.

With the approval of the Right Hon'ble the Secretary of State for India, it has been decided that service in the Indian Defence Force shall count as qualifying service for the Volunteer Officers' Decoration and the Volunteer Long Service Medal, but only in the case of those members who served in the Indian Volunteer Force prior to the formation of the Indian Defence Force.

2. In the case of the Volunteer Long Service Medal each year's extra-efficient service in the Volunteer Force will count as 1¼ years' towards the qualifying period as prescribed in paragraph 57, Army Regulations, India, Volume IX.

3. Service in the Indian Defence Force will not count as qualifying service for either of the above mentioned decorations in the case of those who enrolled for the first time subsequent to the formation of the Indian Defence Force.

[47923 (A. G.) / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 439 of 1918.

SIMLA,
7th May 1918.

439. Establishment of a Staff School at Saugor for the period of the war.

Sanction is accorded to the establishment at Saugor of a Staff School for the training of officers in peace and war staff duties, in order to provide a reserve of trained junior staff officers to replace casualties in Overseas Forces and in India.

Three classes, each of 40 officers, will be held annually at the School.

2. For purposes of pay and allowances officers under instruction will be regarded as on privilege leave from the appointments they held immediately prior to proceeding to the School. They will be mounted free of all charges, without prejudice to any horse allowance to which they may be normally entitled

3. All journeys of student officers to and from the School will be carried out on permanent duty scale, as provided for in Army Regulations, India, Volume X, with the exception that horses are not to be brought at Government expense.

The families of student officers will be entitled to travel on Scale D, paragraph 20, Army Regulations, India, Volume X.

4. At the conclusion of each course, officers will be granted 15 days' leave on full pay, without prejudice to any war leave already accrued.

5. Subsidiary instructions regarding the establishment of the School will be issued to all concerned.

The expenditure involved by this measure, both initial and recurring, should be charged to His Majesty's Government through the Central War Controller.

[404 (O. S) / X]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 440 of 1918.

SIMLA,

7th May 1918.

romotion of departmental rank, warrant and non- (departmental and non- epartmental), members of the Indian Subordinate Medical Department, and civil subordinates of Indian Army Departments who are reported prisoners of war or missing.

It has been decided, with reference to paragraph 2 of Army Department letter No. 4199, dated the 20th March 1917, that the following rules shall govern the promotion of departmental officers with honorary rank, warrant and non-commissioned officers (departmental and non-departmental), members of the Indian Subordinate Medical Department and civil subordinates of Indian Army Departments who are reported prisoners of war or missing:—

I.—MILITARY SUBORDINATES.

Prisoners of war.—All ranks while prisoners of war shall be eligible for further rank promotion as if they were effective with their departments, such promotion being made *pari passu* with their immediate substantive juniors.

Missing.—Subordinates reported missing will remain supernumerary in the rank held on the date of becoming non-effective and will not be eligible for promotion unless they are subsequently reported to be prisoners of war, or return to duty, when any loss of promotion which may meanwhile have become due to them will be made good by antedate.

II.—CIVIL SUBORDINATES.

Civil subordinates who are reported prisoners of war should be considered for grade promotion in their departments as if they were actually performing their duties. Any reported missing will be treated in the same manner as military subordinates.

2. This sanction will have retrospective effect from the commencement of the war and covers the admission of any arrears of pay and allowances involved by the antedating of promotions.

[51401 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 441 of 1918.

SIMLA,

7th May 1918.

441. Issue of additional signalling and telephone equipment to Garrison Battalions.

It has been decided to issue additional signalling and telephone equipment to British Infantry (Garrison) Battalions on the scale which was sanctioned for British Infantry Battalions in Army Department letters No. H.-3988*, dated 16th May 1916, and No. 3555†, dated 9th March 1917.

*Communicated to the Branches of Army Headquarters concerned and the Controllers of Military Accounts.

†Communicated to the Branches of Army Headquarters and the Controllers of Military Accounts concerned with Army Department endorsement No. 3556, dated 9th March 1917.

The scale of the additional equipment is detailed in the annexure to this Instruction.

2. The expenditure involved, which is estimated at Rs. 20,592 initial and Rs. 4,122 annual recurring, is debitable to His Majesty's Government, and should be passed to the Controller of War Accounts for adjustment.

[6820 (D. G. O / E.)]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

[441.

Additional signalling and telephone equipment authorised for Garrison Battalions.

Stores.	Scale.
Section 8-C.	
Flags, signal, army—	
Blue, I. P., 3 ft. square	4
2 ft. square	16
White, with stripe, I. P.—	
3 ft. square	4
2 ft. square	16
Poles, I. P., 3 ft. 6 inches	40
5 ft. 6 inches...	10
Heliographs, I. P.—	
5 inches	4
Straps—	
Shoulder, 5 inch	4
Slinging tripod, 3" and 5"	4
Waist, 3" and 5"	4
Tripods, 3" and 5"	4
Keys, dummy, signallers, I. P.	6
Lamps, hand, signalling, B. B.	4
Lamps, reading	10
Shutters with tripods—	
Shutters	2 }*
Tripods	2 }

*Now obsolescent, *vide* Army Instruction (India) No. 278 of 1916.

Stores.	Scale.
SECTION 16-B.	
Stands, telescope, signalling, I. P.	4
Telescopes, signalling, I. P.	4
SECTION 29-A.	
Apparatus, telephone, portable, I. P. –	
Dismounted services—	
Carriers, drum	1
Pins, earth	2
Telephones, sets, portable, I. P.	2
STORES OF SUPPLY AND TRANSPORT SUPPLY.	
Cotton waste	Lbs. 12 } annually.
Oil, kerosine, ordinary	Galls. 30 } annually.
Oil, kerosine, 150° F. fire test	,, 18 } annually.
Wick, round for reading lamps	as required.
Wick, flat for B. B. and C. C. lamps	as required.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 442 of 1918.

SIMLA,

7th May 1918

442. Regularisation of Nos. 46 and 47 Mobile Brigade Signal Sections.

With reference to Army Department letter No. *1398, dated the 30th January 1917, it has been decided that Nos. 46 and 47 Mobile Brigade Signal Sections shall be regularised as units of the Indian Signal Service for the duration of the war. The establishment of each Section will be as shown in the attached statement. This establishment includes the 8 drivers and 7 mules per section sanctioned in Army Department letter No. 8755, dated the 11th June 1917.

* Published as India Army Order No. 455 of 1917.

2. Nos 46 and 47 Mobile Brigade Signal Sections will be attached to No. 38 Divisional Signal Company in order to ensure efficient training and to allow for change of personnel.

3. The following allowances will be admissible to each Section :—

(a) Office and contract allowance of Rs. 15 per mensem.

(b) An upkeep allowance of Rs. 20 per bicycle per annum.

4. The expenditure involved should be adjusted in the same way as charges of units in India.

[54379 (A. O.) / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India

WAR ESTABLISHMENT.

Detail.	British.				Indian			Followers.		Animals.		Vehicles.		Attached Transport.		Remarks.
	Officers.	Serjeants.	Rank and File.	Total.	Havildar.	Rank and File.	Total.	Public.	Private.	Riding horses.	Equipment mules.	Bicycles.	Motor cycles.	Pack mules.	Personnel.	
Subaltern	1	...	...	1	...	...	...	...	2	2	...	...	...	...	...	
Mounted Signallers ...	...	...	...	...	...	2	2	...	...	2	...	...	...	...	...	
4 Light cable detachments	...	...	8	8	1	12(a)	13	...	...	...	...	...	...	...	...	(a) Includes 1 naik and 1 lance-naik.
Visual Signallers and Despatch Riders.	...	...	5	5	...	5(b)	5	...	...	...	...	6	...	...	...	(b) Includes 1 naik.
Office	...	1	(c) 1	2	...	...	...	...	...	...	...	...	...	...	...	(c) Corporal.
Baggage Guard ...	...	...	1	1	...	1	1	...	...	...	...	...	...	...	...	
Followers	...	...	...	...	...	...	...	(d) 4	...	...	...	...	...	...	...	(d) 1 Bhisti. 1 Sweeper. 2 Cooks.
Sapper drivers ...	...	...	...	...	...	16(a)	16	...	...	...	10	...	...	...	...	
Motor Cyclists ...	...	...	...	...	...	2	2	...	...	...	...	...	2	4	...	
Total ...	1		15	17	1	38	39	4	2	4	10	6	2	12	4	

A MOBILE BRIGADE SIGNAL SECTION—*concld.*

TRANSPORT.

Detail.	Equipment mules.	Pack mules.	Drivers.	REMARKS.
echnical Equipment	16	..	(*a*) 16	(*a*) Sapper driver
1st Line.				
echnical equipment	..	1	(*b*) 2	(*b*) Supply and Transport drivers.
akhals	..	1		
ookers, rations and kits	...	4		
2nd Line.				
otor Cycles spares and tentage	...	6	(*b*) 2	
Total	16	1[illegible]	20	

NOTE.—Loads are as in Field Service Manual for a Divisional Signal ompany.

Loads B 1—12 = 12 mules.
B 1 = 1 mule.
B 2 = 1 mule.
Two B 8 = 2 mules.

Total ... 16 mules.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 443 of 1918.

SIMLA,
7th May 1918.

443. Clothing for Royal Air Force.

Revised rules and scales of clothing for the Royal Air Force in India are published in the appendix to this Instruction, in supersession of existing orders on the subject.

[33281 (Q. M. G.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

APPENDIX TO ARMY INSTRUCTION (INDIA) NO. 445 DATED 7TH MAY 1918.

Rules regarding clothing for the rank and file of the Royal Air Force.

Issues to complete to the authorised scales will be made as directed in the attached statements. A soldier arriving in India not in possession of any articles forming part of the "Scale to be maintained" and a free "Arrival issue" of which is not provided for, will also receive a free issue of such articles under the orders of the Officer Commanding, provided that the deficiency is not due to the fault of the individual or the corps.

2. Renewals of personal clothing will be made in kind on the expiration of the periods of wear laid down in the attached statement "A", and those of public clothing under Army Regulations, India, Volume XI, paragraph 77. Articles brought out and forming part of the Indian scale will be renewed, when unserviceable, under the orders of the Officer Commanding. In cases in which the men bring two drab serge suits from home, both the suits will be retained by them, and a renewal issue of a suit of the Indian pattern drab serge will not be admissible until both the suits brought from home have become unserviceable. The cost of refitting drab serge and khaki drill suits brought out and continued in wear in India will be met from the allowance referred to in Army Regulations, India, Volume XI, paragraph 68 (g).

3. Compensation, within the limit of the rates specified in the "Price List of Clothing and Necessaries," will be admissible in lieu of issues in kind of articles of personal clothing in the case of men who are in possession of the full prescribed scale in a good and serviceable condition when replacements become due. Having received compensation, the soldier will be liable for any renewals which become necessary during the period for which compensation is granted.

4. Re[illegible] l to the men on payment. [illegible] be credited to them with eff[illegible] India. This allowance will cease from the date of embarkation in the case of men proceeding on field service.

5. The following additional issues and allowances will be permissible :—

(a) *Miscellaneous Allowances.*—As laid down in Army Regulations, India, Volume XI, paragraph 68.

(b) *Coats, warm, troops.*—Under the conditions specified in Army Regulations, India, Volume XI, paragraph 89, in the case of men who do not already maintain this article as part of their kit.

(c) *Waterproof Clothing.*—Under the provisions of Army Regulations, India, Volume XI, paragraph 86.

(d) *Sea Kit.*—Under the provisions of Army Regulations, India, Volume XI, paragraph 72.

(e) *Badges for skill-at-arms, etc.*—As authorised for British troops under Army Regulations, India, Volume XI, Appendix IV. The signaller's badge will, however, be of gold embroidery.

A.

Scale of Clothing and Necessaries for the Rank and File of the Royal Air Force.

Personal Clothing

Articles.	*Period of wear, years.	Scale to be maintained.	Arrival issues.	Remarks.
Boots, ankle, dismounted, prs.	½	2	...	
Buttons, sets of 9 ...	..	1	...	First issue only.
Cap, field	2	1	1	
†Frock, drill, khaki ...	1	3	2	
Hat, pith, khaki	1½	1	1	To be issued to men who are required to do duty in the plains during the hot weather.
Helmet, complete ...	4	1	...	
Hooks, waist, prs. ...	...	1	...	First issue only.
†Jacket, service dress ...	1	1	...	Jackets, service dress, brought out from England will be continued in wear in India.
Pantaloons, cord, khaki, prs. ...	1	2	...	
Putties, khaki, prs. ...	1	1	...	
Trousers, drill, khaki, prs. ...	1	2	1	
Trousers, service dress, prs. ...	1	1	...	Trousers, service dress, brought out from England will be continued in wear in India.

A —*contd.*

Articles.	*Period of wear years.	Scale to be maintained.	Arrival issues.	Remarks.
Extra articles for motor car drivers and motor cyclists.				
Cap, forage (railway pattern)...	2	1	...	
Cover, helmet, khaki ...	...	...	...	2 per man annually.
Drawers, warm, pairs ...	½	2	...	

* The periods of wear are not descriptive of the period during which any individual article is expected to last, but represent the time which must elapse before a fresh issue of one article can be claimed. *Example.*—The "Scale to be maintained" of frocks, drill, khaki, is 3, and the period of wear is given as 1 year. This signifies that at the conclusion of one year from the receipt by a man of one or more frocks, drill, khaki, the man may claim one frock, drill, khaki as a renewal issue.

† With chevrons, etc. All chevrons and badges will be of worsted lace and embroidery, except the signaller's badge which will be of gold embroidery.

B.

Public Clothing.

Articles.	Period of wear (years).	Scale to be maintained.	Arrival Issues.	Remarks.
Gloves, chamois leather, prs ...	2	12(*a*)	...	(*a*) Per Aeroplane Squadron. For use in cold weather by men doping wings in the open.
Greatcoat, dismounted ...	8	1(*b*)	...	(*b*) Except motor cyclists
Spine-pad	(*c*)	1(*c*)	1	(*c*) Issue to be made at the discretion of General Officers Commanding to men who are required to remain on the plains during the hot weather. The articles will be condemned by, and are placed under the orders of Officers Commanding units and when men leave India, except for field service, they will be returned to store.
Suits, dungaree ...	1	2(*d*)	...	(*d*) Except Disciplinary Sergeant-Majors, clerks, wireless operators and photographers.
Extra articles for motor car drivers and motor cyclists.				
Coat, warm, troops ...	5	1	...	Motor cyclists only.
Coat, waterproof	5	1	—	Except motor cyclists.

Articles.		Period of wear (years).	Scale to be maintained.	Arrival issues.	Remarks.
Gaiters, leather	prs.	3	1	..	
Gloves, leather, brown	prs.	1	1	..	
Goggles	prs.	*	1*	...	To be provided locally. Renewals to be made when necessary under the orders of the Officer Commanding.
Jackets, waterproof	..	5	1	...	Motor cyclists only.
Leggings, waterproof ...	prs.	5	1	...	Motor cyclists only.
Waistcoats, leather, without sleeves.		4	1	...	Except motor cyclists.

Extra articles for pilots and observers.		Per Aeroplane Squadron. For each pilot or observer.	Per Aeroplane Squadron. For non-commissioned officers and men training as observers or aerial gunners.
Boots, knee, R. A. F. ...	prs	1	6
Caps, fur-lined	...	1	6
Gauntlets (observers only) ..	prs.	1	6
" (pilots only) ...	prs.	1	...

Extra articles for pilots and observers.	PER AEROPLANE SQUADRON	
	For each pilot or observer	For non-commissioned officers and men training as observers or aerial gunners
Goggles, mask, leather, R. A. F., without glasses (for winter use) ... prs.	1	6
Goggles, R. A. F., without glasses (for summer use) ... .. prs.	1	6
Glasses, triplex, for goggles (light-tinted for pilots, dark-tinted for observers) prs.	1	6
Glasses, triplex, non-tinted (in case) ...	1	6
Helmets, aviation	1	6
Jackets, leath r	1	6
Overshoes, gaitered ... prs.	1	6

C.

Necessaries.

Articles.	Scale to be maintained.	Arrival issues.	Remarks.
Badge, cap	1	...	
Bag, universal	1	...	
Blacking, tin	1	1(*a*)	(*a*) An allowance of one anna to be granted in lieu of a free issue.
Braces, ... prs.	1	...	
Brass, button	1	...	
Brush, blacking	1	...	
" brass	1	...	
" clothes	1	...	
" hair	1	...	
" polishing	1	...	
" shaving	1	...	
" tooth	1	...	
Comb, hair	1	...	
Disc, identity, No. 1, green, with cords. ...	1	...	
Disc, identity, No. 2, red ...	1	...	
Dubbing, tin	1	1(*b*)	(*b*) An allowance of 4 annas to be granted in lieu of a free issue

Articles.	Scale to be maintained.	Arrival issues.	Remarks.
Fork	1	...	
Holdall	1	...	
Housewives	1	...	
Jersey (*c*)	1	...	(*c*) Cardigan waistcoats brought to India to be regarded as equivalent to the Indian jersey, and continued in wear in India.
Knife, table	1	...	
Laces, boot, prs.	1	...	
Mitts, worsted, prs (*d*) ...	1	...	(*d*) Gloves, worsted, brought to India to be regarded as equivalent to the Indian mitts, worsted, and continued in wear in India.
Razor and case	1	...	
Shirts, flannel	3	...	
Soap, piece	1	...	
Socks, worsted, prs	3	...	
Sponge, pipe clay	1	...	
Spoon	1	...	
Titles (or badges), metal for shoulder straps, sets.	2	...	
Towels	2	...	

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 444 of 1918.

SIMLA,
7th May 1918.

444. Instructions to Military Courts assembled for the trial of Prisoners of War.

Army Council Instructions No. 1209 of 1917, and No. 48 of 1918 (reproduced as annexures hereto) are republished for the information and guidance of all concerned.

[46059 (A. G.-7). / C.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

ANNEXURE A.

ARMY COUNCIL INSTRUCTION.

No. 1209 of 1917.

WAR OFFICE,

2nd August, 1917.

1209. Prisoners of War—Instructions to Military Courts Assembled for the Trial of Prisoners of War.

1. In the case of *German combatant* prisoners of war the *maximum* punishment for the undermentioned offences is as stated below.

Offence.	*Maximum Punishment.*
(*a*) Simple escape or attempt to escape (for the first or any subsequent offence) ...	14 days' military confinement.
(*b*) The above offence combined with any other punishable offence consequent upon or incidental to such offence in respect of property, whether in relation to the appropriation or possession thereof or damage thereto	2 months' military confinement.

2. Subject to the above the following general instructions are issued for the guidance of military courts assembled for the trial of prisoners of war, but nothing contained in them must be construed as limiting the discretion of the court to pass any legal sentence whether in accordance with these instructions or not, if, in their opinion, there is good reason for so doing.

Offence.	*Punishment.*
(*a*) Breach of discipline ...	Not exceeding 56 days' military confinement (see Note A. below).

Offence.	*Punishment.*
(*b*) Escaping or attempting to escape (except in the case of *German combatant* prisoners of war), (see para 1).	Not exceeding 112 days' military confinement (see Note A. below).
(*c*) Serious breach of discipline or insubordination not accompanied by violence or which does not constitute mutiny.	Not exceeding 168 days' military confinement (see Note A. below) or imprisonment with hard labour according to the gravity of the offence.
(*d*) Mutiny or any offence accompanied by violence.	Any punishment at the discretion of the court.

In case of repeated acts of the same kind, punishments may be proportionately increased

(NOTE A.—In the case of civilian prisoners of war, imprisonment without hard labour will be substituted for military confinement, see para. 5)

3. The only sentences that may be passed are :—

(*a*) Death.

(*b*) Penal Servitude.

(*c*) Imprisonment with or without hard labour.

(*d*) Military confinement.

4. An officer should not be sentenced to undergo imprisonment unless convicted of an offence of exceptional gravity.

5. Military confinement, which will be carried out in places of detention under military control, can be inflicted only on combatant prisoners of war. It is inapplicable to civilians, for whom imprisonment without hard labour is a corresponding punishment. If inflicted on civilians it will be inoperative as it cannot be commuted to imprisonment.

6. No punishment except military confinement (or imprisonment without hard labour in the case of civilians) may be inflicted for an escape or attempt to escape.

7. A copy of these instructions is to be laid before all military courts.

8. A.C.I. **182** of 1917 is cancelled.

0103/Gen. No./34 (P. W. 1).

By Command of the Army Council.

R. H. BRADE.

[*Copies for F.Ms. C.-in-C. in France and at Home; all G.Os.C.-in-C. and G.Os.C. at Home and Abroad; all Commandants of places of internment for prisoners-of-war at Home; all Government Offices.*]

ANNEXURE B.

Army Council Instruction.

No 48 of 1918.

War Office,

16th January, 1918.

48. Prisoners of War—Instructions to Military Courts assembled for the trial of Prisoners of War. Amendments to A.C.I. 1209 of 1917.

1. An agreement having been reached with the German Government whereby German civilian prisoners of war shall benefit by the reduced scale of punishments for escaping or attempting to escape from internment, the following amendments will be made to A.C.I. **1209** of 1917.—

Para. 1. In line 1 *delete* the word "combatant."

In lines 7 and 15, *after* "confinement" *add* the words "(see Note A below)."

Para. 2 (*b*) In line 3, *delete* the word "combatant."

2. These amendments will come into force on the *1st February* 1918.

0103/Gen. No./84 (P.W. 1).

By Command of the Army Council.

R. H. BRADE.

[*Copies for F.Ms.C.-in-C. Home Forces and in France; all G.Os.C.-in-C. and G.Os.C. at Home and Abroad; all Commandants of places of internment for prisoners of war at Home; all Government Offices.*]

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 445 of 1918.

SIMLA,

7th May 1918.

445. Revised rules for promotion in the Army Bearer Corps.

1. All promotions made in the field prior to the issue of these orders (except those made under paragraph 3 (*c*), (*d*) and (*e*) of India Army Order No 629 of 1914, as amended by India Army Order No. 143 of 1915, and not yet confirmed) are to be considered substantive.

2. Henceforth only acting promotions will be made in the field. These promotions will be for the purpose of maintaining the authorised proportion of non-commissioned officers to men in the field medical unit concerned, and will be made by Officers Commanding these units They will be admissible in the following circumstances :—

(*a*) on definite information of a death vacancy.

(*b*) on definite information of a non-commissioned officer being made a prisoner of war.

(*c*) on the reduction of a non-commissioned officer.

(*d*) in place of a wounded, missing or sick man.

(*e*) on the removal of a non-commissioned officer from the unit under paragraph 7 of these rules.

Promotions will be cancelled :—

(1) on the return to duty of the non-commissioned officer whose absence caused the vacancy.

(2) on the arrival of a substantive non-commissioned officer to fill the vacancy.

3. Substantive promotions will only be made by Officers Commanding, Army Bearer Corps Companies in India. They will be made by selection from the whole of each company including men on field service. Substantive promotions are admissible in the following circumstances :—

(a) On the increase of the actual total strength of the Company through the acquisition of recruits, in order to bring the number of substantive non-commissioned officers in the company up to the authorised proportion (approximately 1 lance-havildar, 1 naik and 1 lance-naik to 63 bearers).

(b) On the occurrence of a vacancy through the death or reduction in rank of a non-commissioned officer, or through a non-commissioned officer being made a prisoner of war.

(c) In place of a non-commissioned officer on field service, who has been wounded or is sick or missing, in cases in which one calendar month has expired since the receipt of the official report of the casualty and intimation has not been received in the meantime that the non-commissioned officer has returned to duty.

NOTE.—In the case of promotions made under clause (c) above, if the non-commissioned officer causing the vacancy should subsequently return to duty, the non-commissioned officer who has received promotion in his place, will rank as supernumerary and will be absorbed in the next vacancy which occurs.

4. Officers Commanding, Army Bearer Corps Companies in India, may make acting promotions in the following cases :—

(a) When, owing to increase in strength at Company Headquarters, additional non-commissioned officers are required at Company Headquarters, and the men whose turn it is for substantive promotion are on field service. Acting non-commissioned officers promoted under this clause will revert to their substantive ranks when, owing to the return to Company Headquarters of substantive non-commissioned officers, or to any other cause, the necessity for the acting promotion ceases to exist.

(b) When, for the sake of discipline, etc., it is necessary to send non-commissioned officers to accompany a draft of bearers proceeding over-sea and substantive non-commissioned officers cannot be spared from Company Headquarters. Acting non-commissioned officers promoted under this clause will revert to their substantive rank on arrival overseas.

5. All promotions (both acting and substantive), which are made to fill vacancies due to casualties, will take effect from the day following that of the casualty.

6 All acting promotions carry full pay. It is most important that it should be clearly explained to the man concerned, at the time a promotion is made, whether it is to be considered as substantive or acting, if it is acting, the circumstances under which he will revert to his substantive rank, should be made clear to him

7 When it is necessary to make promotions in order to provide non-commissioned officers for increased strengths at Company Headquarters, and there are not present at Company Headquarters men of sufficient experience, who, if given acting promotion under paragraph 4 (a), would meet requirements, Officers Commanding Companies may request the General Officer Commanding the Force concerned, through their Divisional Commanders, to return to India the men whom they intend to promote substantively.

8. In order to adjust, as far as possible, any anomalous position that may have arisen through promotions made in accordance with previous orders (*e.g.*, men with short service having been promoted without reference to the claims of older men on field service), Officers Commanding Companies are empowered to make such antedates (without pay), in the promotions of the older men as they consider necessary.

[13844 (D.M.S.). / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 446 of 1918.

SIMLA,

7th May 1918.

446. Wireless Signal Service. Organization of No. 3 Wireless Signal Squadron.

The Government of India have decided that the following units shall be added to the establishment of the Wireless Signal Service in India.—

(a) Nos 3 and 4 Pack Wireless Troops (the formation of which was sanctioned in Army Department letter No 8854, dated the 15th June 1917.)

(b) The establishment of the Seistan Detachment (the formation of which was sanctioned in Army Department letter No. 5937, dated the 15th June 1917), to be increased to that of a Pack Wireless Troop. This Troop will in future be known as No. 5 Pack Wireless Troop.

2. As the result of the above decision, and the sanctions conveyed in the marginally* noted Army Department letters, the establishment of No. 3 Wireless Signal Squadron will be as shown in the attached statement.

*Army Department letter No. 6601, dated the 5th May 1917.
Army Department letter No. 15741, dated the 19th October 1917.
Army Department letter No. 17494, dated the 24th November 1917.
Army Department letter No. 18169-3 (C.G.S.-S.D.-2), dated the 27th September 1917.

3. The Government of India also approve of the establishment of No. 3 Wireless Signal Squadron, as shown in the attached statement, being considered as a tentative peace establishment for the duration of the war.

4. In supersession of all previous orders the entire expendi-ture will be debitable to "Grant 14—War 1914—North-West Frontier, 1916."

[04149 (A.G.). / C.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

No. 3 WIRELESS SIGNAL SQUADRON.

Establishment.

Detail.	PERSONNEL. Fighting men. British. British Officers.	Warrant Officers.	Staff Sergeants and Sergeants.	Rank and file.	Total.	Indian. Havildars.	Rank and file.	Total.	Followers. Public.	Animals. Riding ponies.	Pack mules.	Transport. Waggon sets.	Pack sets.	Motor bicycles.	Bicycles.	Remarks.
Headquarters ...	2	1	2	4	9	2	3	5	3	...	...	...	...	2	...	
Nos. 1, 2, 3, 4, and 5 Troops.	10	...	15	130	155	5	120	125	85	155	110	...	30	...	10	
Improvised Troop, for 4 Stations on N. W. F.	1	...	3	26	30	...	...	...	12	...	...	...	...	...	...	
Total ...	13	1	20	160	194	7	123	130	100	155	110	...	30	2	10	

Detail.	ESTABLISHMENT.															Remarks.
	PERSONNEL.									ANIMALS.		TRANSPORT.				
	FIGHTING MEN.								FOLLOWERS.							
	British.					Indian.										
	British Officers.	Warrant Officers.	Staff Sergeants and Sergeants.	Rank and file.	Total.	Havildars.	Rank and file.	Total.	Public.	Riding ponies.	Pack mules.	Waggon sets.	Pack sets.	Motor bicycles.	Bicycles.	
Headquarters—																
Commandant (Major or Captain).	(a)	...	...	...	1	...	...	...	...	...	...	...	...	...	...	
Squadron officers (Captain or Lieutenant).	(b) 1	...	...	...	1	...	...	...	...	...	...	...	...	...	...	(a) Graded as a Company Commander of a Divisional Signal Company.
Squadron Sergeant Major	...	1	...	...	1	...	...	...	...	...	...	...	...	...	...	
Squadron Quartermaster Sergeant.	...	...	1	...	1	...	...	...	...	...	...	...	...	...	...	(b) Graded as a Company Officer of a Divisional Signal Company.

S. S. Instrument repairer	...	...	1	...	1	...	...	...	...	...	...	...	...	2	...	
Privates ...	...	...	...	(c) 4	4	...	...	...	...	...	...	...	...	...	...	(c) Storemen, etc.
Quartermaster Havildar	...	...	...	...		1	...	1	...	...	...	...	...	...	...	(d) Under training.
Havildar clerk ...	...	.	...	.	...	1	...	1	...		...	...	...	...	...	(e) 1 cook, 1 *bhisti*, 1 sweeper.
Sapper drivers ...	...	...	...	...	...	...	(d) 3	3	...	...	...	...	...	...	...	
Public followers ...	...	...	...	...	...	...	...	...	(e) 3	...	...	...	...	...	...	
Total ...	2	1	2	4	9	2	3	5	3	...	...	.	.	2	...	(a) Graded as a Company officer of a Divisional Signal Company.
Pack Wireless Troop—																
Troop Commander (Captain or Lieutenant).	(a) 1	...	...	.	1	...	...	...	...	...	...	...	...	...	...	(Note.—This grading will not take effect until the present Troop Commanders vacate their Commands.)
Troop Officer (Captain or Lieutenant).	(b) 1	...	...	...	1	...	...	...			.	...	...	...	...	
S. S. Instrument Repairer	...	...	1	...	1	...	...	...	...							
Sergeants ...	...	...	2	.	2	...	...	...	...							(b) Graded as a Company Officer of a Divisional Signal Company.
Corporals ...	...	...	...	2	2	...	...	...	...							
2nd Corporals ...	.	...	...	2	2	...	...	...	...	(f) 31	...	...	6	...	2	
Lance-Corporals ...	...	...	...	2	2	...	...	...	...							(f) 2 spare.
Privates ...	...	...	...	20	20	...	...	...	...							

Detail.	PERSONNEL.								FOL-LOWERS.	ANIMALS.		TRANSPORT.				REMARKS.
	FIGHTING MEN.															
	British.					Indian										
	British officers.	Warrant officers.	Staff Sergeants and Sergeants.	Rank and file.	Total.	Havildars.	Rank and file.	Total.	Public	Riding ponies.	Pack mules.	Wagon sets.	Pack sets.	Motor bicycles.	Bicycles.	
Sapper clerk ...	...	...	...	...	...	...	1	1	...	...	...	...	...	...	...	
Havildar driver ...	...	...	...	...	...	1	...	1	...	...	...	...	...	...	...	
Naick driver ...	...	...	...	...	...	...	1	1	...	...	...	...	...	...	...	(g) 2 cooks, 2 bhistis, 1 mochi, 1 sweeper (1 mochi, 1 sweeper extra on mobilisation for 3, 4 and 5 Troops.).
Sapper drivers ...	...	...	...	...	...	...	22	22	...	...	22	...	...	...	...	
Public followers ...	...	...	...	...	...	...	...	...	6(g)	...	...	...	...	...	...	
Syces	...	...	...	...	...	...	...	...	(h) 11	...	...	...	...	...	...	
Total, 1 Troop ...	2	...	3	26	31	1	24	25	17	31	22	...	6	...	2	(h) Includes 1 Naick Syce.
Total, 5 Troops ...	10	...	15	130	155	5	120	125	85	155	110	...	30	...	10	

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 447 of 1918.

SIMLA,

14th May 1918.

447. Grant of a tuition allowance for providing instruction in colloquial Hindust ni to the junior officers of Divisional Signal Companies, Machine Gun Squadrons, Machine Gun Companies and the Machine Gun Training Centre.

In continuation of Army Instruction (India) No. 361, dated the 16th April 1918, it has been decided that the provisions of Army Department letter No. 9300, dated the 23rd June 1917, regarding the grant of a tuition allowance for providing instruction in colloquial Hindustani to officers of the Indian Army shall be applicable to junior officers on the establishment of the following units who, in the opinion of their Commanding Officers, have little or no knowledge of the language :—

(*a*) Divisional Signal Companies.

(*b*) Machine Gun Squadrons.

(*c*) Machine Gun Companies.

(*d*) Machine Gun Training Centre.

This sanction does not apply to officers undergoing courses of instruction at the Machine Gun Training Centre.

2. The expenditure involved is debitable to "Grant 14—War, India—Miscellaneous"—under the Army head.

[17188 (O.S.) / R.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 449 of 1918.

SIMLA,
14th May 1918.

9. Re-employment of retired Indian soldier clerks with units and depots.

It has been decided that the provisions of Army Instruction dia) No. 30 of 1918 shall be made applicable to all Indian ts and depôts.

[58587 (A.G.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 448 of 1918.

SIMLA,

14th May 191

448. Extension of the inspectional duties of th Commandant, Machine Gun Training Centre, t cover the inspection of machine guns in de fences.

It has been decided that the inspectional duties of the Com mandant, Machine Gun Training Centre, as defined in the footnot to India Army Order 552 of 1917, shall be extended to cover th inspection of machine guns in defences. If the Commandant is at any time prevented by his official duties from carrying out an in spection in person he may detail an Instructor at the Machine Gun Training Centre to inspect on his behalf.

2. Detention allowance at Rs. 5 *per diem* for any day on which travelling allowance is not drawn is admissible to the Commandant, Machine Gun Training Centre, or the Instructor detailed by him during a tour of inspection. The necessary correction to Army Regulations, India, Volume I, paragraph 254, will be published in due course.

[19572 (G. S.) / E]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 453 of 1918.

SIMLA,
14th May 1918.

453 Corrigendum.

In the 4th and 5th lines of Army Instruction (India), No 160 of 1918, *for* " the certificate of a single medical officer " *substitute* " the certificate of a single commissioned medical officer."

[2166 (D.M.S.). / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 452 of 1918.

SIMLA,
14th May 1918.

452. Addition of a Moochi to the establishment of each Cavalry Brigade Signal Troop serving in India.

It has been decided that a moochi shall be added to the establishment of each Cavalry Brigade Signal Troop serving in India.

2. The expenditure involved should be adjusted in the same way as the charges of the units concerned.

[01821 (A.G.) / C.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)
No. 454 of 1918.

SIMLA,
14th May 1918.

454. Employment of an intermediate class o Veterinary Assistants, *viz.*, Veterinary Dafa dars, for the period of the war.

In view of the existing shortage in the authorised establishment of veterinary assistants and of the difficulty in obtaining qualified men, it has been decided to employ, for the period of the war, civilian practitioners, retired cavalry salutries, selected dressers, etc., to meet requirements. The men, though not qualified as veterinary assistants, should possess sufficient practical experience in the treatment of animals, and will be required to pass a test which will be prescribed for them.

2. The men will be classed as Veterinary Dafadars (intermediate class) and employed on the following terms :—

Civilian practitioners, retired cavalry salutries, etc.—

(*a*) Pay at Rs. 30* per memsem.

(*b*) 50 per cent batta in India on pay.

(*c*) 100 per cent batta on field service.

(*d*) Other terms as sanctioned in Army Department letter† No. H.-2150, dated the 22nd March 1916.

Veterinary dressers—

Pay at Rs. 19 per mensem.

* Exclusive of any pension they may be drawing.

† Communicated to General Officers Commanding, Divisions and Independent Brigades, under Quartermaster-General's No. 25383-1 (Q.M.G.-7), dated the 25th March 1916.

[847(Q.M.G.)/D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 456 of 1918.

SIMLA,
14th May 1918.

456. Authority for the grant of allowances to officers of the British and Indian Armies travelling outside Indian limits.

It has been decided that the General Officer Commanding at the port shall be the sanctioning authority for claims preferred under Army Instruction (India) No. 310 of 1918 by officers detained at ports while travelling outside Indian limits.

[55837 (A.G.)-B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 457 of 1918.

SIMLA,

14th May 1918.

457. Men of Frontier Levies or Militia Corps transferring permanently to the Indian Army during the present war to be permitted to count previous pensionable service towards pension in the Indian Army.

It has been decided with the approval of the Secretary of State for India that all men of Frontier Levies or Militia Corps who have transferred, or may transfer, permanently to the Indian Army during the present war shall be permitted to count the whole of their previous service towards pension in the Indian Army, provided that such service was pensionable in their former unit.

[58041 (A.G.). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 459 of 1918.

SIMLA,
11th May 1918.

459. Delegation of authority to the Quartermaster-General in India to sanction the alteration or revision of grass and dairy farm forms

It has been decided to authorise the Quartermaster-General in India to sanction the alteration or revision of grass and dairy farm forms, subject to the condition that the concurrence of the Military Accountant-General in the case of the former class of forms, and of the Senior Controller of Military Supply Accounts in the case of the latter class, shall be obtained in the first instance, and that no change shall be made involving a change of policy or leading to extra expense.

2. The orders issued in the past by the Quartermaster-General in India, involving alterations to these forms, are confirmed.

[28584 (Q.M.G.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 458 of 1918.

SIMLA,

14th May 1918.

458. Appointment of a British officer to command No. 1 Military Prisoners' Labour Company.

In continuation of Army Instruction (India) No. 18 of 1918, it has been decided that a British officer will command No. 1 Military Prisoners' Labour Company; he will be graded as a Company Commander of Indian Infantry and will receive pay as such with effect from the date on which he assumed his duties.

2. The expenditure involved is debitable to His Majesty's Government.

[03175 (A G.) / E]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 460 of 1918.

SIMLA,

14th May 1918.

460. Grant of rough riders certificates to Royal Artillery and Cavalry non-commissioned officers.

It has been decided that—

(1) Certificates of proficiency as rough riders will, in future, be granted to British and Indian non-commissioned officers of Royal Artillery and Cavalry in India on Army Form B.-80 (modified for India) instead of on India Army Form X.-1843.

(2) Such certificates may also be granted by Commandants of artillery remount training depôts, which have a British riding master on their establishments, as well as by the officers mentioned in paragraphs 847 and 879, King's Regulations, to British and Indian non-commissioned officers who complete an instructional course of not less than 3 months duration and attain a degree of proficiency not less than "good" in each of the subjects specified in Army Form B.-80 (modified for India). When such certificates are granted, the non-commissioned officers are not to be withdrawn for duty with their units unless in exceptional circumstances, and then only after consultation with the commandant of the depôt concerned.

2. The introduction of Army Form B.-80 (modified for India) will be notified in India Army Orders in due course.

[19711 (O.S.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 461 of 1918.

SIMLA,
14th May 1918.

461. Grant of leave to conditionally released convicts serving overseas in special companies attached to Jail Labour and Porter Corps when invalided to India

With reference to Rule 2 of Army Department letter No. 2131 dated the 13th February 1917, of which a copy is published as an annexure, it has been decided that when a conditionally released convict is invalided to India after the lapse of the period which would have exhausted his sentence had he remained in jail, he may be granted leave from the Combined Jail Labour Depôt and Convalescent Section, Bareilly, in accordance with the rules applicable to other non-combatants, provided his conduct, while in military service, has been satisfactory.

[49857 (A. G.) / E].

A. H. BINGLEY, *Major-General*,
Secretary to the Government of India.

Copy of a letter from the Secretary to the Government of India, Army Department, to the Adjutant General in India, No. 2131, dated Delhi, the 13th February 1917.

I am directed to convey the approval of the Goverament of India to the following rules relating to the disposal, on their return to India, of convicts who have been enrolled for service in Mesopotamia :—

(1) Convicts returned for misconduct should be handed over to the local civil police authorities at the port of disembarkation, in the case of Bombay, to the Commissioner of Police, Bombay, and in the case of Karachi to the Deputy Superintendent, Criminal Investigation Department in Karachi, and transferred thence to their original jails under civil arrangements.

(2) Convicts invalided for sickness or other causes will be treated as free men except that they will not be given leave from the Convalescent Section, which is combined with the Depôt, and will be sent on service again when they are pronounced fit, if the period for which they were enrolled has not expired.

(3) Convicts who are pronounced unlikely to be fit within a reasonable time should be discharged by the Officer Commanding the Depôt in communication with the head of their Civil District. The convict will be given by the Officer Commanding the Depôt a warrant for the railway journey home, and if other precautions are necessary to secure him returning to his destination, the District Officer will be responsible for arranging for the same.

(4) In the event of a convict being discharged before recovery of the whole or any portion of the amount granted him as an advance of pay has been effected, the amount unrecovered should be written off.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 462 of 1918.

SIMLA,
14th May 1918.

462 Procedure for accounting for cooking pots issued to drafts proceeding overseas as reinforcements for Indian units and departments.

With reference to Army Department letter No. H.S.-527,* dated 5th March 1915, it has been [illegible] ceeding overseas as reinforcements for Indian units and departments :—

(a) The articles provided will be taken on equipment ledger charge by the purchasing unit.

(b) Those sent with drafts will be charged off on voucher by units concerned, the vouchers, in duplicate, being sent in charge of the officer commanding the draft from whom a temporary receipt for the articles issued will be obtained.

(c) The officer commanding the draft will be instructed to hand in the cooking pots on arrival overseas, to the Army Ordnance Department or the Supply and Transport Corps (as the case may be) and to return one copy of the voucher, duly receipted, to the unit to support the entry in the ledger, retaining the other receipted copy to protect himself in case of the original being lost.

* Communicated to Divisional and Independent Brigade Commanders under Quartermaster-General's No. 21885-3 (Q. M. G.-6), dated 11th March 1915.

(*d*) Should the receipted voucher disclose any deficiency in the cooking pots handed in, or should the voucher not be returned, the officer commanding the unit will take steps to recover the value of the articles to be written off from the officer commanding the draft.

[21885 (Q.M.G.). / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 463 of 1918.

SIMLA,
14th May 1918.

463. Armoured Motor Batteries in India—Pay and Allowances.

With reference to the scheme for the grouping of Armoured Motor Batteries into Brigades announced in Army Instruction (India) No. 250 of 1918, it has been decided that the personnel of Armoured Motor Batteries shall receive pay and allowances as follows:—

(1) *Officers of the British Service.*—Indian pay of rank as for Royal Field Artillery. Officers below the rank of major who are in command of batteries will receive command pay at Rs. 50 per mensem. Office allowance is held to be included in this command pay.

(2) *Officers of the Indian Army*—

(a) The Officer Commanding, No. 10 Armoured Motor Battery—Indian Army pay of rank and staff pay at Rs. 200 per mensem.

(b) The four subalterns posted to No. 10 Armoured Motor Battery—Indian Army pay of rank and staff pay at Rs. 100 per mensem

(3) *The Officer Commanding, No. 1 Armoured Motor Brigade*—Indian pay of rank as for Royal Field Artillery *plus* command pay at Rs. 350 per mensem, as Commandant of the Headquarters Brigade and Inspector of Armoured Motor Batteries.

(4) *The Officer Commanding, No. 2 Armoured Motor Brigade.*—Indian pay of rank as for Royal Field Artillery *plus* command pay at Rs. 150 per mensem. Office allowance is held to be included in this command pay.

(5) *The Adjutant, No. 1 Headquarters Brigade.*—Indian pay of rank as for Royal Field Artillery *plus* staff pay at Rs. 250. Office allowance is held to be included in this command pay.

(6) *British rank and file.*—Pay at Royal Field Artillery rates. Extra duty pay will be admissible to drivers at annas 12 per diem and to assistant drivers at annas 6 per diem.

(7)—*Personnel of the Indian Defence Force.*—Will receive, when called out for duty, the same rates of pay as British personnel.

(8) *Indian rank and file.*—Pay at the same rates as drawn prior to being seconded with Armoured Motor Batteries.

[0732 (A. G) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 464 of 1918.

SIMLA,

14th May 1918.

464. Revised scale of Indian officers and non-commissioned officers authorised for the training and discipline of the extra establishments sanctioned for Indian Infantry battalions and depots.

Sanction is accorded to the following revised scale of Indian officers and non-commissioned officers for the training and discipline of extra establishments of Indian Infantry battalions and depôts, in substitution of the scale notified in India Army Order No. 192 of 1915.

For unmobilised battalions and mobilised battalions who have formed no depôts.—

(1) For every complete 114 in excess of 912 actually serving with and on the strength of the battalion—1 Jemadar.

(2) For every complete 20 in excess of 912 actually serving with and on the strength of the battalion—1 Havildar and one Naick.

For depôts of Indian Infantry battalions.—

In addition to the depôt staff laid down in Field Service Manual, Indian Infantry and Pioneers, Section 7,—

(1) For every complete 100 in excess of 63 actually serving with and on the strength of the depôt—1 Jemadar.

(2) For every complete 20 in excess of 68 actually serving with and on the strength of the depôt—1 Havildar and 1 Naik.

(3) For every complete 150 in excess of 800 actually serving with and on the strength of the depôt—1 Pay Havildar or acting Pay Havildar.

The above are to be within the total establishment allowed for a battalion or depôt.

2. The promotions to Jemadar will be permanent, those to Havildar and Naik temporary only, but will carry full pay of temporary rank held.

3. It is desirable that battalions and depôts shall employ pensioned Indian officers and non-commissioned officers for these appointments whenever men in every way suitable are available, such men being re-employed in the rank held on retirement, on the following terms:—

Full pay of rank in addition to pension or other allowances they may be in receipt of as pensioners, *plus* good conduct or good service pay, and free rations or a money allowance in lieu as authorised in India Army Order No. 96, dated 22nd January 1917.

Free issues of clothing in kind on the scale and under the conditions prescribed in the annexure to this Instruction.

[01564 (A.G.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

Scale of free issues of clothing for pensioned Indian officers and non-commissioned officers re-employed for the training and discipline of extra establishments authorised for Indian Infantry battalions and depots.

Articles.		Scale of issue.	Remarks.
Badges of rank (Indian Officers only) ...	Set	1	
Bag, kit, universal		1	
Belt, Sam Browne (Indian Officers only) ...		1	
Blanket		1	
Blouse, or frock, khaki drill		2	
Boots, ankle	Prs.	2	
Buttons	Set	1	
Chevrons and badges of rank (Non-commissioned officers only—according to rank).	"	1	
Greatcoat		1	
Haversack		1	
Knickerbockers, or trousers, khaki drill ...	Prs.	2	
Kullah, khaki, or pag (as worn)		1	
Pad, shoulder, khaki, (not for Indian Officers)		1	
Puggri, khaki		1	
Puggri, fringe...		1	
Putties	Pr.	1	
Socks, or foot-bandages	Prs.	2	
Titles, shoulder	Pr.	1	
Underclothing	Suits	2	
Water bottle		1	
Additional Articles.			
Blanket *		1	To be issued at the discretion of General Officers Commanding.
Jersey *		1	
Pyjamas, warm *	Pr.	1	

NOTES.

1. Renewals of any of the above articles when worn out will be made at the public expense by commanding officers. On conclusion of the war the kits of these Indian officers and non-commissioned officers will be sold to the best advantage and the proceeds credited to the State. The procedure to be adopted was notified in India Army Order No. 1215 of 1917.

2. An allowance of Re. 0-8-0 per mensem for each Indian officer and non-commissioned officer is also authorised for the provision and maintenance of such small articles of necessaries in addition to the above, as may be considered necessary by commanding officers.

3. Pensioned Indian officers and non-commissioned officers re-employed in India for service in Burma are entitled, when proceeding thereto, to the full foreign service kit allowance or a portion thereof, the amount due being dependent upon the receipt by them of the articles of foreign service kit marked * above.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 465 of 1918.

SIMLA,
14th May 1918.

35. Conducting parties employed under the orders of District Assistant Recruiting Officers.

Sanction is accorded to the number of military pensioners or vilians employed by each District Assistant Recruiting Officer ing increased from 4 up to a maximum of 8 when considered cessary by the Divisional Recruiting Officer.

2. Any additional men thus entertained will be employed on e following terms :—

(i) *Indian Army Pensioners*—

(a) Full pay of rank in addition to pension or other allowances of which they may be in receipt as pensioners.

(b) Free rations or money allowance in lieu under India Army Order No. 96 of 1917.

(c) Good service and good conduct pay at the rate they were in receipt of when transferred to pension.

(d) Clothing as allowed to reservists called up for service.

(e) Batta under paragraph 901, Army Regulations, India, Volume I.

(ii) *Police Pensioners*—

(a) The full pay (including good service pay, if any) which the police pensioners were in receipt of, at the time of their retirement, in addition to their pension.

(*b*) Batta at Rs. 5 per mensem.

(*c*) Clothing on the scale prescribed for police in the Police Manual of the Province concerned.

(iii) *Civilians*—

Pay of sepoy and free rations, or money allowance in lieu, in addition to batta, *vide* paragraph 901, Army Regulations, India, Volume I. The character of the men so employed should have been vouched for by the civil authorities.

3. As an alternative to paragraph 2 (*iii*) above, sanction is accorded to the delegation within the limits prescribed in paragraph 1 to Provincial Recruiting Boards of the power to fix the rates of pay of civilians in Government employ who may be selected to assist District Assistant Recruiting Officers and to act as conducting parties, subject to the proviso that an average expenditure of Rs. 20 for each civilian authorised to be entertained should not be exceeded.

4. The expenditure involved is debitable to His Majesty's Government and should be adjusted through the Central War Controller.

[031-0 (A G) / r.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 466 of 1918.

SIMLA,

14th May 1918.

466. Revision of the pay of the clerks employed in Arsenals and Depots of the Indian Ordnance Department.

It has been decided that, with effect from the 1st May 1918, the grading and pay of the clerks employed in Arsenals and Depôts of the Indian Ordnance Department, shall be as detailed in the appendix to this Instruction.

2. The clerks employed at Quetta and Rangoon shall continue to draw the local allowances at present authorised, in addition to the rates of pay sanctioned herein, subject to the modification that the minimum rate of salary including foreign allowance, for those serving in the Rangoon Arsenal, shall be Rs. 67-8-0 per mensem.

3. The allotment of clerks to the several Arsenals and Depôts will be controlled by the Quartermaster-General in India subject to the condition that the total sanctioned complement in each grade is not exceeded.

4. The extra expenditure involved is estimated at Rs. 43,000 per annum. The expenditure during the current financial year, which is estimated at Rs. 35,800 approximately, will be met from the provision in this year's Army estimates under "Grant 14—Miscellaneous—Reserve with the Government of India," and the sum of Rs. 35,800 is accordingly hereby transferred from the above grant and head to "Grant 10—Ordnance Establishments—Supplies and Services—Arsenals and Depôts." The detailed distribution of this sum should be communicated by the Quartermaster-General

in India in due course to the Military Accountant-General and the Senior Controller of Military Supply Accounts after the distribution of the clerks referred to in paragraph 3 above has been settled.

[$\frac{\text{(Q.M.G.)}}{\text{D.}}$]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

APPENDIX TO A. I. (I.) No. 466 OF 1918.

Statement showing the revised grading and pay of the clerks employed in Arsenals and Depots of the Indian Ordnance Department.

No.	Designation.	Pay. Minimum.			Pay. Increment.			Pay. Maximum.			Average cost		
		Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
5	Head Clerks ...	180	0	0	12	0	0	240	0	0	1,125	0	0
8	Clerks ..	130	0	0	6	0	0	160	0	0	1,220	0	0
15	" ...	100	0	0	4	0	0	120	0	0	1,725	0	0
57	" ..	70	0	0	4	0	0	90	0	0	4,845	0	0
60	" ...	40	0	0	4	0	0	60	0	0	3,300	0	0
60	" ...	...			...			30	0	0	1,800	0	0
205	Total ...	...			...			...			14,015	0	0

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 467 of 1918.

SIMLA,
14th May 1918.

467. Temporary appointments in the Military Police in the Mesopotamia Expeditionary Force.

It has been decided that the conditions of Army Council Instruction No 1733 of 1916 published as an appendix to this Army Instruction, shall be made applicable to the Mesopotamia Expeditionary Force.

[03733(A G.). / B]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

APPENDIX.

1733. Temporary appointments in the Military Police

1. With a view to simplifying the administrative arrangements in connection with temporary appointments in the Military Police it has been decided that soldiers selected from other units (except Household Cavalry) for these appointments during the continuance of the war shall be temporarily transferred to the Corps of Military Police, instead of being attached as hitherto. This procedure will come into operation 14 days from the date of receipt of these instructions by G Os.C.-in-C.

2. During their service with the Military Police they will cease to draw their former rates of pay (including proficiency pay or service pay), and will come on to the normal rates of pay for the Military Mounted, or Foot Police, provided in Article 854, Pay Warrant.

3. Any promotion given outside the present approved establishment while serving in the Corps of Military Police will be to acting rank only.

4. Soldiers so temporarily transferred who become surplus to establishment at the end of the war will be retransferred to their former units at the end of the war, or at any earlier date that the Army Council may direct; and, on such retransfer, will resume the rank and rates of pay of which they were in receipt before transfer (including proficiency pay, or service pay).

5 An entry should be made in the man's documents that he has been temporarily transferred under the conditions of A.C.I. 1733 of 1916.

6 Once a transfer becomes operative it is not proposed to retransfer except on very special grounds, and therefore any man who can either bring forward good reasons for wishing to rejoin his unit or is not considered a suitable man for inclusion in the corps of Military Police (especially men "fit for Home Service only") should have their cases dealt with immediately.

467] 30/Misc./289 (F. 2).

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 468 of 1918.

SIMLA,

14th May 1918.

468. Issue of khaki serge suits in lieu of warm underclothing to certain British soldiers located in Divisions other than the 1st, 2nd, 16th and 4th Divisions.

In supersession of the orders contained in Army Department letter No 12036*, dated 14th August 1917, sanction is accorded to an i [illegible] per man to British soldiers [illegible] other than the 1st, 2nd, 16 [illegible]

* India Army Order No 1010 of 1917.

(a) that the individual is in receipt of quarterly clothing allowance or free renewal issues of personal clothing in kind;

and

(b) that they are not already in possession of khaki serge uniform suits issued by Government.

The issue will be made at the discretion of General Officers Commanding concerned.

2. Renewals of khaki serge suits will be made as follows :—

(i) *Those in receipt of quarterly clothing allowance.*—The cost of renewals will be met from such allowance.

(ii) *Those who draw free renewal issues of personal clothing in kind.*—Renewals at the public expense will be admissible under the orders of the Officer Commanding subject to a minimum period of duration of 18 months.

3. Warm vests and warm drawers issued under the authorit of the Army Department letter quoted in paragraph 1 above w be withdrawn and after disinfection and washing returned to t Clothing Storage Depôt

[1123 (Q.M.O.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of Indi

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 469 of 1918.

SIMLA,
14th May 1918.

9 Scale of technical furniture to be issued to the Royal Air Force in India.

It has been decided that technical furniture shall be issued to e Royal Air Force in India on the scale shown in the annexed atement.

2 The expenditure is debitable to the Military Works Grant Ordinary Demands.

3 Amendments to Army Tables, Miscellaneous Services, Part Section IV, and type plans, where necessary, will be published due course.

[1693(Q M G.-3). / C.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

Scale of technical furniture for the Royal Air Force in India.

Item.	Articles.	SCALE FOR		
		A squadron, comprising, Headquarters and 3 flights of Royal Air Force	A flight of Royal Air Force.	Aircraft Park.
1	Almirahs, large ...	6	2	1
2	Benches (for carpenters) ...	4	1	10
3	" (for fitters and coppersmiths).	8	2	16
4	" (for riggers) ...	4	1	5
5	" (for sailmakers) ...	1	...	3
6	Bins, portable, type "A" (for stores).	16	4	16
7	" " type "B" (for stores)	16	4	16
8	Boxes, partitioned (for tally cards E.P.)	1	...	1
9	" " (for tally cards I.P.)	1	...	1
10	" " (for filing A F B.-105)	1	..	1
11	Cabinet (for filing A. F B.-13)	1	..	1
12	" (for drawings) ...	1	...	1
13	" (for filing indents) ...	1	..	2
14	Safes, wooden, with shelves, lock and keys (for aeroplane instruments).	1	...	1
15	Trestles (for riggers) ...	8	2	12
16	" (for sailmakers and carpenters).	8	2	12
17	" wing tip ...	8	2	12
18	" tail	18	6	12
19	" undercarriage ...	18	6	12
20	" (for sailmakers) ...	8	2	12

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 470 of 1918.

SIMLA,

14th May 1918

470. Syce Corps.—Formation of No. 2 Corps and of Depot for Nos. 1 and 2 Corps.

*No 4320, dated the 22nd March 1917, communicated to Heads of Branches of Army Headquarters and the Accounts authorities concerned under endorsement No. 4321, dated 22nd March 1917.

No. 8272, dated the 6th June 1917, communicated to General Officer Commanding, 5th (Mhow) Division, and the Accounts authorities concerned under endorsement No. 8273, dated 6th June 1917

No. 10334, dated the 12th July 1917, communicated to the Chief of the General Staff, the General Officer Commanding, 5th (Mhow) Division, and the Accounts authorities concerned under endorsement No. 10335, dated 12th July 1917.

No. 13160, dated the 1st September 1917, communicated to Heads of Branches of Army Headquarters and the Accounts authorities concerned under endorsement No. 13161, dated 1st September 1917.

With reference to the marginally noted Army Department letters*, it has been decided to raise a second Syce Corps, to be designated No. 2 Syce Corps.

2. Sanction is accorded, with effect from the 1st January 1918, to an establishment of 5 companies in each of the two Syce Corps, each company being of the following strength:—

1 Indian Officer (Indian Cavalry).

1 Kot Dafadar (Indian Cavalry).

2 Lance-Dafadars (Indian Cavalry)

4 Chowdhris.

194 Syces.

2 Bhistis.

2 Langris.

2 Sweepers.

Private followers on the authorized scale.

3. A Syce Corps Depôt will be formed at Sehore, Central India, with the following Depôt Staff :—

1 Commandant (Captain, Indian Army Reserve of Officers).	Pay of rank, *plus* staff pay at Rs. 250 per mensem.
1 Assistant Commandant (Lieutenant or 2nd-Lieutenant, Indian Army Reserve of Officers).	Pay of rank, *plus* staff pay at Rs. 150 per mensem
1 Woordie Major (Pensioner) ...	Rs. 100 per mensem consolidated, *plus* pension
1 Kot Dafadar (Pensioner) ...	Pay of rank (non-silladar), *plus* pension.
3 Lance Dafadars (Pensioners) ...	Pay of rank (non-silladar), *plus* pension.

4. The Officer [illegible] allowed Rs 150 per mense [illegible] a further sum of Rs. 50 per [illegible] rolls of the Depôt in exces [illegible] will be attached to the Depôt and not to the Corps.

5. The following allowances are sanctioned for the Depôt :—

	Rs.
Recruiting allowance (Permanent Imprest) ..	500
Office allowance	50 per mensem.
Contingent allowance	50 " "

Rs. 350 will also be allowed for the purchase of a typewriter.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 470 of 1918.

SIMLA,

14th May 1918.

470. Syce Corps.—Formation of No. 2 Corps and of Depot for Nos. 1 and 2 Corps.

*No. 4320, dated the 22nd March 1917, communicated to Heads of Branches of Army Headquarters and the Accounts authorities concerned under endorsement No. 4221, dated 22nd March 1917.

No. 8272, dated the 6th June 1917, communicated to General Officer Commanding, 5th (Mhow) Division, and the Accounts authorities concerned under endorsement No. 8273, dated 6th June 1917.

No. 10334, dated the 12th July 1917, communicated to the Chief of the General Staff, the General Officer Commanding, 5th (*Mhow*) Division, and the Accounts authorities *concerned* under endorsement No. 10335, dated 12th July 1917.

No. 13160, dated the 1st September 1917, communicated to Heads of Branches of *Army* Headquarters and the Accounts authorities concerned under endorsement *No.* 13161, dated 1st September 1917.

With reference to the marginally noted Army Department letters*, it has been decided to raise a second Syce Corps, to be designated No. 2 Syce Corps.

2. Sanction is accorded, with effect from the 1st January 1918, to an establishment of 5 *companies* in each of the two Syce Corps, each company being of the following strength:—

1 Indian Officer (Indian Cavalry).

1 Kot Dafadar (Indian Cavalry).

2 Lance-Dafadars (Indian Cavalry).

entertained after 1st February 1918. Such followers of these classes who were entertained prior to 1st February 1918 will however, continue to receive the pay and allowances as authorized in Army Department letter No. 4320,* dated 22nd March 1917.

*Comm... en- ...917, and ... Accounts concerned.

8. A bonus of Rs. 20 is admissible,—on enrolment, for each Chowdhri, Syce, Bhisti, Sweeper or Langri enrolled at, or for, the Depôt.

9. Tentage on the following scale will be allowed for each Company:—

Indian Officers	... 1	20 lbs. tent.
Indian non-commissioned officers ...	... 2	
Chowdhris, Syces and followers ...	... 60	

and will be drawn by the Officer Commanding the Depôt prior to the despatch of a Company. Tentage should accompany each Company despatched on field service.

10. *Clothing.*—As authorized for the Expeditionary Force concerned.

11. *Rations.*—Free rations will be admissible from date of enrolment to all Chowdhris, Syces, Bhistis, Sweepers or Langris while in India. If free rations are not issued a money allowance of four annas per diem will be admissible to these classes in lieu thereof. When on field service free rations will be admissible on followers scale. The combatant ranks will receive free rations whether in India or on field service.

12 *Pensions and Gratuities.*—For Chowdhris, Syces, Bhistis, Sweepers and Langris, as prescribed in clauses 7 and 8 of Army Instruction (India) No. 64 of 1918.

Combatant ranks will be eligible for pensions as prescribed for their rank in Army Regulations, India, Volume I.

13. The following Miscellaneous and Medical equipment is authorized for No. 2 Syce Corps.

Miscellaneous equipment.

Identity discs as required.

40 section sets of aluminium cooking pots.

1051 log lines (for tying up kits).

Medical equipment.

1051 First field dressings.

Identity discs, log lines and first field dressings will be drawn by the Officer Commanding the Depôt as required for reinforcements.

14. The designation of No. 1 Syce (Remount)* Corps shall in future be "No. 1 Syce Corps."

*Vide Army Department letter No. 13160, dated [illegible]
[illegible]
3161, dated 1st September 1917.

15. The foregoing orders, in respect of Nos. 1 and 2 Syce Corps and the Syce Corps Depôt, will have retrospective effect from the 1st January 1918.

16. The expenditure involved in connection with these Syce Corps and the Syce Corps Depôt is debitable to His Majesty's Government through the Controller of War Accounts.

[58168 (A.G.) / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 471 of 1918.

SIMLA,

21st May 1918.

471. Extension, for a period of 10 days, of the class for the personnel of Armoured Motor Batteries in mechanism and driving.

The class for the personnel of Armoured Motor Batteries in mechanism and driving, authorised in Army Instruction (India) No. 369 of 1918, is extended for a period of 10 days, and will conclude on the 24th May 1918 instead of on the 15th May 1918.

[493 (G.S.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 473 of 1918.

SIMLA,

21st May 1918.

473. Special allowance of three annas per diem for boys serving with regular units of the British Army in India.

It has been decided that the special allowance of three annas per diem sanctioned in India Army Order No 1266, dated the 23rd October 1917, for regular soldiers of the British Army in India is admissible, with retrospective effect as in the case of regular soldiers, to the boys serving in the Royal Artillery Boys' Depôt at Nowshera and to those of regular units of the British Army in India.

[41054 (A. G.-6). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 472 of 1918.

SIMLA,

21st May 1918.

472. Procedure to be adopted in communicating to the next-of-kin the location of graves of British officers and soldiers who die in India.

The Right Hon'ble the Secretary of State for India has requested that information regarding the location of graves of officers and men of British units and [illegible] of the Indian Army, whether invali[illegible] or forming part of the garrison of [illegible] communicated to the War Office in the case of the British Service and to the India Office in the case of the Indian Army, for communication to the next-of-kin of such ranks It has been decided that this information shall be included in Army Forms B-2090 and B-2090-A which will continue to be rendered in duplicate by and to the same authorities as at present. The following additional information should be entered in manuscript on the forms :—

(1) Date of burial.
(2) Station in which buried.
(3) Cemetery in which buried.
(4) Number of grave.
(5) Authority having charge of the cemetery.

If possible, it should be stated whether the grave is marked with a cross or other memorial fully inscribed.

2. Similar information should in future be included in the reports of deaths made to the next-of-kin in India of British officers and soldiers who die in this country.

[08613 (A. G.-8.) / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 474 of 1918.

SIMLA,

21st May 1918.

474. Grant of financial powers to the Controller of Contracts.

With reference to Army Instruction (India) No. 7, dated the 8th January 1918, it has been decided to delegate to the Controller of Contracts the financial powers of a Divisional Commander, as defined in Army Regulations, India, Volume III, paragraph 6, in respect of the objects stated in paragraph 7, (I) (*i*) and (*ii*) and paragraph 10 of those regulations.

[2093 (Q. M. G.). / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 475 of 1918.

SIMLA,

21st May 1918.

475. Responsibility for making acting promotions in Sapper and Miner Units, Indian Mountain Artillery Batteries, Mechanical Transport Companies, and units of the Indian Signal Service.

With reference to Army Instruction (India) No. 298 of 1918, it has been decided that recommendations regarding the acting promotions of British officers serving with Sapper and Miner units, Indian Mountain Artillery Batteries, Mechanical Transport Companies and units of the Indian Signal Service will be submitted to the Military Secretary to His Excellency the Commander-in-Chief as heretofore.

[7165 (M.S.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 476 of 1918.

SIMLA,

21st May 1918.

476. Employment of additional Armourer Sergeants in arsenals.

Sanction is accorded to the employment in arsenals, as a temporary measure for the period of the war, of 10 additional reserve armourer sergeants who will be found from qualified men of Garrison and Territorial Battalions.

2. The men on joining an arsenal will, in the first instance, receive pay at a consolidated rate of Rs. 125 per mensem, inclusive of regimental pay and allowances, as authorised by Army Department letter No. H.-2715,* dated the 18th April 1916, and when trained the pay and allowances admissible under regulations to a second class armourer staff sergeant serving with the reserve in the Indian Ordnance Department.

*Addressed to the Director-General of Ordnance in India and communicated to the Military Accounts Officers concerned with the same number and date.

3. Whilst in receipt of consolidated pay these men will not be liable to payment of rent when in occupation of Government quarters.

4. The expenditure involved will be debitable to the ordinary grant and head of account affected in the Army estimates and the Controller of War Accounts will make any necessary readjustment between His Majesty's Government and the Government of India.

[8575 (Q. M G.) / K.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 477 of 1918.

SIMLA,

21st May 1918.

477. Disposal of men of the Mauritius Labour Corps, invalided to India.

It has been decided that men of the Mauritius Labour Corps, when invalided to India and on discharge from hospital, shall be sent to the Combined Labour Depôt, Dadar, Bombay.

[51594 (A. G.). / A]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 479 of 1918.

SIMLA,

21st May 1918.

479. Pay and allowances of V. A. D. Nurses of the British Service.

War Office telegram No 6515-F 2, dated 15th May 1916.
Army Department letter No 1849, dated 6th April 1917.
Army Department letter No 9245, dated 3rd June 1917.
Army Department letter No. 15002, dated 6th October 1917.
Army Department letter No. 8746, dated 2nd July 1917.

It has been decided that the provisions of the marginally noted orders regarding pay and allowances of Lady Nurses of the British Services apply also to V. A. D. nurses of the British Service who are, or who in future may be, doing duty in India or Mesopotamia.

[1185 (D. M. S.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

11AI

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 478 of 1918.

SIMLA,

21st May 1918.

478 Issue of mosquito veils to British troops on guard at night.

With reference to paragraph (*iv*) of Special India Army Order, dated the 4th October 1917, sanction is accorded to the issue of mosquito *veils* to British units at stations where mosquitoes are prevalent.

2. The veils are to be worn with helmets or pith hats, by sentries on guard at night.

3. The issues are to be made on the recommendation of the local medical authorities, and should be limited to the average number of sentries found by the unit.

4. The extra expenditure involved is estimated at Rs. 2,500, and should be debited to the ordinary grant and head affected.

[86490 (Q. M. G.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 480 of 1918.

SIMLA,

21st May 1918.

480. Appointment of British non-commissioned officers to Sappers and Miners as instructors.

It has been decided to extend the provisions of Army Instruction (India) No 117 of 1918 to the Headquarters of a Corps of Sappers and Miners and to the Depot of the Burma Companies, Sappers and Miners.

[03895(A.G.3) / C]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 481 of 1918.

SIMLA,

21st May 1918.

481. Status of German prisoners of war holding the ranks of Obergefreiter or Gefreiter.

Soldiers in the German Army of the rank of Obergefreiter and Gefreiter are classed as private soldiers, and are, therefore, subject to all the rules and regulations which obtain in the case of private soldiers.

2. Attention is specially drawn to paragraph 39 of the Rules for Prisoners of War attached to the Royal Warrant of August 3rd, 1914, as subsequently amended, in which the word "private" should be read as including the above ranks.

[01371 (A. G. 7) / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 483 of 1918.

SIMLA,

21st May 1918.

483. Pay and allowances of officers of other arms posted to the Royal Air Force in India.

It has been decided that an officer of another arm of the service posted to the Royal Air Force and performing the duties of a Royal Air Force officer will receive pay and allowances in accordance with the ordinary rules for officers of the Royal Air Force in India.

[172 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 482 of 1918.

SIMLA,
21st May 1918.

482. Detention allowance to officers of the Indian Defence Force when attending courses of instruction.

It has been decided that the orders in Army Department letter No. 18337-3 (A G.-6), dated the 5th July 1917, sanctioning the grant of detention allowance to officers of the Indian Defence Force when attending a course of instruction, shall have effect from the 26th May 1917.

[57772 (A. G.-6). / B.]

A. H. BINGLEY, *Major General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 484 of 1918.

SIMLA,
21st May 1918.

484. Increase in the number of British non-commissioned officer instructors in newly raised Indian Infantry battalions.

Sanction is accorded to the scale authorised in Army Instruction (India) No. 113 of 1918 of British non-commissioned officer instructors attached to newly raised Indian Infantry battalions being increased to 1 per 75 recruits for such time as their services are required for training Indian instructors.

[05802 (A. G.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 485 of 1918.

SIMLA,

21st May 1918.

485. Accumulation of privilege leave admissible to matrons employed in Station Family Hospitals.

It has been decided that the 30 days' privilege leave admissible* to matrons employed in Station Family Hospitals in India, may be accumulated up to 90 days in accordance with the rule in Army Regulations, India, Volume II, paragraph 221.

*Army Department letter No 217-1 (P.M.O.-2), dated 25th July 1911.

[2272 (D. M. S.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 487 of 1918.

SIMLA,

21st May 1918.

487. Replacement of Armament Artificers, Army Ordnance Corps, by Fitter Staff Serjeants, Royal Artillery, in Royal Horse and Royal Field Artillery.

In conformity with a recent decision of the Army Council in respect of British establishments, Royal Artillery, sanction is accorded to the substitution of Fitter Staff Serjeants, Royal Artillery, for Armament Artificers, Army Ordnance Corps, on the establishments of Royal Horse Artillery Batteries and Royal Field Artillery Brigades in India.

[261 (A. G.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 486 of 1918.

SIMLA,

21st May 1918.

486 Issue of clothing and necessaries from the Army Clothing Department on payment to Imperial Service Troops at rates authorised for Indian troops *plus* cost of packing and carriage

It has been decided that, for the period of the war or until further orders, Durbars may, if they so desire, obtain on payment their actual requirements of clothing and necessaries for supply to Imperial Service Troops in India from the Army Clothing Department at the existing recovery rates authorised for Indian troops *plus* the cost of packing and carriage.

2. Demands for clothing and necessaries from Imperial Service Troops, made under the authority of this instruction, will be complied with to the extent of such standard patterns only as are authorised for issue to Indian troops.

[A.D.Regr. No. 8971. / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA.

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA).

No. 489 of 1918

SIMLA,

21st May 1918.

489. Method of payment of the sum of Rs. 2 authorised for recruiters in the case of combatant recruits and of the subsistence allowance to the latter

It has been decided that, in the case of combatant recruits the payment of the sum of Rs. 2 authorised in sub-paragraph (1) of India Army Order No. 24, dated the 1st January 1918, shall cover all expenses up to the date of the arrival of the recruit at the Headquarters of the District Assistant Recruiting Officer, and shall not be held to cover the time spent at the Headquarters awaiting the arrival of the Assistant Recruiting Officer, during which period subsistence allowance at the rate of 4 annas per diem will be admissible for each combatant recruit.

2. The payment of the sum of Rs. 2 to the recruiter will be conditional on the provisional approval of the recruit by the District Assistant Recruiting Officer.

[53649 (A. G.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 490 of 1918.

SIMLA,

21st May 1918.

490. Abolition of certificate regarding efficiency in military duties and desirability of retention in the service, required in the case of British and Indian ranks recommended for the supply of dentures.

It has been decided to dispense with the certificate of efficiency in military duties and desirability of retention in the service required by paragraph 3 (*c*) of Army Department letter No. 10614, dated the 28th September 1916, in the case of British and Indian ranks recommended for the supply of dentures.

[1033 (D. M. 8.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 491 of 1918.

SIMLA,

21st May 1918.

491. Abbreviated telegraphic address of the Officer in charge of Medal Distribution.

In continuation of Army Instruction (India) No. 418, dated the 7th May 1918, it is notified for information that the word "Medallist" has been registered as the abbreviated telegraphic address of the Officer in charge of Medal Distribution and it should be taken into use immediately.

[14524 (A. D.). / Medals.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 493 of 1918.

SIMLA,

21st May 1918.

493. Delegation of authority to the Controllers of Military Accounts to admit claims to arrears of good conduct pay time barred in consequence of unavoidable circumstances connected with the war.

It has been decided that, as a temporary arrangement for the period of the war, claims to arrears of good conduct pay earned under regulations, the submission of which is delayed in consequence of unavoidable circumstances connected with the war, and which therefore become time barred under paragraph 59, Army Regulations, India, Volume III, but are in other respects in order, may be admitted by the Controller of Military Accounts concerned, without prior reference to the Government of India.

[03289 (A. G.-6.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA)

No. 492 of 1918.

SIMLA,

21st May 1918.

492. Pay and allowances of Machine Gun Corps in India.

It has been decided that the pay of British officers, warrant officers, non-commissioned officers and men serving with the Machine Gun Corps in India shall be regulated as follows, British officers receiving Indian pay of rank and branch :—

Infantry branch—as for Infantry of the line.

Cavalry branch—as for Cavalry of the line.

Heavy and Motors branch—as for the Royal Field Artillery.

2. Command pay will be admissible to British officers as follows :—

	Per mensem. Rs.
Infantry branch—Company Commander ...	50
Cavalry " —Squadron " ...	60
Heavy and Motors branch—Battery Commander (below rank of Major*)	50

* The pay of a Major of Royal Field Artillery includes command pay.

3. Indian ranks serving with the Machine Gun Corps in India will be paid as under :—

Infantry branch—as for Indian Infantry.

Cavalry branch—as for non-silladar cavalry.

4. These rates of pay will be applied from the date of landing in India in the case of those units which arrived from home; and from the date of formation, in the case of the units formed in India.

[05087(A.G.-6) / P.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 494 of 1918.

SIMLA,

21st May 1918.

494. Issue to mounted men of transport units of one pair of knickerbockers, khaki, in lieu of two pairs of knickerbockers, khaki.

With reference to India Army Order No 103 of 1917,* and annexure to India Army Order No. 1300 of 1917, regarding the scales of clothing for the personnel of transport units, it has been decided that mounted men shall receive two blouses, khaki, complete with buttons, badges (A. T.) and numerals, and one pair of knickerbockers, khaki, instead of two suits, khaki, as laid down therein.

* Army Department letter No 6, dated 10th January 1917. Army Department letter No. 18826, dated 14th September 1917.

[1865 (Q. M. G.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 495 of 1918.

SIMLA,

21st May 1918.

495. Issue of 36-inch grindstones with troughs, to Central Workshops, Coast Defences.

Sanction is accorded to the provision of a 36-inch grindstone, with trough, for each of the Central Workshops, Coast Defences.

2. The cost involved, which is estimated at Rs. 513 initial and Rs. 51 annual recurring, is debitable to the ordinary grant and head of account affected in the Army Estimates.

[8032 (D.G.O.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 496 of 1918.

SIMLA,

21st May 1918.

496. Grant of bonus, on enrolment, to recruits of the Army Bearer Corps.

Sanction is accorded, as a war measure, to the grant of a bonus of Rs. 50 to each recruit enlisted for the Army Bearer Corps. The bonus will be granted as follows :—Rs. 10 on enrolment and the balance (Rs. 40) after the recruit has been passed by the medical officer of the company concerned.

2. The extra expenditure involved is chargeable to His Majesty's Government, and should be adjusted through the Controller of War Accounts.

[03518 (A. G.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 497 of 1918.

SIMLA,
21st May 1918.

497. Royal Air Force Pay of Park Commander employed in India.

It has been decided that the pay of a Park Commander, Royal Air Force, employed in India, shall be Rs. 1,045 per mensem consolidated, inclusive of exchange compensation allowance. A command allowance of Rs. 100 per mensem will be admissible to the officer actually in command.

[03216 A G.I. / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 498 of 1918.

SIMLA,

21st May 1918.

498. Issue of spare split pins for hand grenade equipment

It has been decided that six spare split pins shall be issued with each "grenade, hand, practice, dummy, No. 5, I.P.," referred to in India List of Changes, paragraph 9268.

2. The expenditure is debitable to the ordinary grant and head of account affected in the Army Estimates.

[5747 (D. G. O.) / D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No 499 of 1918.

SIMLA,

21st May 1918.

499. Grant of powers to the Deputy Director of Stocks, Supply and Transport Corps, to obtain books in accordance with the revised procedure laid down in India Army Order No 45 of 1918.

With reference to India Army Order No 45, dated the 8th January 1918, the undermentioned officer is added to the list of military authorities therein empowered to indent direct on the Government Press for books, etc :—

Deputy Director of Stocks Supply and Transport Corps

[20857 (Q. M. G.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 501 of 1918.

SIMLA,

21st May 1918.

1. Formation of a temporary Mountain Warfare School at Abbottabad.

Sanction is accorded to the formation of a temporary Mountain arfare School at Abbottabad from 1st April 1918 to 15th Octo- 1918 for the training of officers.

2. During the above period 6 classes each consisting of 96 ic- [illegible] d staff officers and 4 s [illegible] e held under the orders l [illegible]

3. The instructional staff will be composed as stated below :—

Instructional Staff.

1 Commandant with temporary rank of Lieutenant-Colonel and consolidated pay at Rs. 1,600 per mensem without exchange compensation allowance for 7 months from 15th March 1918.

4 Assistant Instructors who will be granted the temporary rank of Major if not already holding that rank and be given pay of rank and staff pay at Rs. 250 per mensem *plus* exchange compensation allowance. 3 for 7 months from March 25th and 1 for 7¼ months from March 1st 1918.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 500 of 1918.

SIMLA,
21st May 1918.

500. Detention allowance for warrant and non-commissioned officers of the Ordnance Department.

It has been decided that the detention allowance authorised for warrant and non-commissioned officers of the Supply and Transport Corps in Army Instruction (India) No. 261 of 1918, shall also be admissible to warrant and non-commissioned officers of the Ordnance Department when detained at out-stations on duty connected with the Ordnance Department. The terms of the above Army Instruction will fully apply in such cases.

[2310 (Q. M. G.) / B.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 502 of 1918.

SIMLA,

21st May 1918.

502. Proficiency pay for members of the Indian Defence Force, other than those of Electrical Engineer Companies who are entitled to military pay and allowances.

It has been decided that in supersession of all previous orders on the subject, members of the Indian Defence Force, other than those belonging to Electrical Engineer Companies, if entitled to military pay and allowances under the terms of clauses (*a*), (*b*), (*c*) or (*d*) of paragraph 289 of the Rules and Regulations for the Indian Defence Force (Provisional), shall, with effect from the 29th September 1917, be eligible for the grant of proficiency pay under the general conditions in force for soldiers of the British Regular Forces as laid down in the King's Regulations and the Royal Warrant for pay, but modified to suit the terms of service and training of the Indian Defence Force as follows :—

Class I Proficiency Pay at Annas 6 per diem.

(*i*) Non-commissioned officers of or above the rank of serjeant will in virtue of their rank be entitled to Class I Proficiency Pay at Annas 6 a day as soon as they have attained the age of 18½ years and completed six months' service in the Indian Defence Force and provided that they have performed the annual obligatory training.

(*ii*) Soldiers and non-commissioned officers below the rank of serjeant who fulfil the above conditions and who

possess one of the special qualifications laid down below corresponding to those referred to in Article 1064 (*b*) of the Pay Warrant, will be eligible for the grant of Class I Proficiency Pay at Annas 6 a day.

SPECIAL QUALIFICATIONS.

Light Horse, Mounted Rifles and Infantry.

(*i*) Marksman or 1st Class Shot as laid down in paragraph 86, Annexure to Special India Army Order, dated 31st April 1917, or

(*ii*) 1st Class Machine Gunners as laid down in the Regulations for the Indian Defence Force.

(*iii*) Qualified Signaller as laid down in Training Manual Signalling (Provisional), 1915, Indian Supplement, Chapter XI.

Mobile and Garrison Artillery.

(*i*) *1st Class Gunners as regulated by the Instruction for the classification of artillerymen for proficiency pay contained in Appendix XXIV, King's Regulations (practical portions only of the examinations) who are also Qualified Range-Takers as laid down in the handbook of the range finding equipment on charge or also Qualified Layers as regulated by the Instructions for Practice applicable to the Unit, or

(*ii*) Qualified Signallers as laid down in Training Manual Signalling (Provisional), 1915, Indian Supplement, Chapter XI, or

(*iii*) 1st Class Drivers as tested by a practical and oral examination to be held by the Battery Commander and embracing the following :—

(*a*) Driving,

(*b*) Fitting of harness,

(*c*) Duties in coming into action, unlimbering and limbering up,

(*d*) Battery drill, general knowledge only.

* NOTE.—A corporal or bombardier shall be deemed to possess the qualification.

The percentage of marks to be obtained in order to qualify is 75.

Class II Proficiency Pay at Annas 3 per diem.

Soldiers and non-commissioned officers below the rank of serjeant who have attained the age of 18½ years and completed six months' service in the Indian Defence Force and provided that they have performed the annual obligatory training, will be eligible for the grant of Class II Proficiency Pay if they possess the qualifications shown below.

QUALIFICATIONS

Light Horse, Mounted Rifles and Infantry.

(i) 2nd Class Shot as laid down in paragraph 86, Annexure to Special India Army Order, dated 30th April 1917, or

(ii) Qualified Machine Gunners as laid down in the Regulations for the Indian Defence Force.

Mobile and Garrison Artillery.

1st Class Gunner as defined above or (in Garrison Artillery only) Qualified Range Takers D. R. F. as regulated by Garrison Artillery Training, Volume I.

2. The above grant of proficiency pay is in all cases conditional upon the non-commissioned officer or man being certified by his Commanding Officer as efficient in the duties of his rank in the arm of the service to which he belongs, having regard to the function to which his unit is assigned. The fact that the Commanding Officer puts the non-commissioned officer or man in regimental orders as qualified for proficiency pay will be taken as certifying him under this paragraph. When a Commanding Officer considers that a man is no longer qualified under this paragraph he will withdraw the grant of proficiency pay in regimental orders.

[53301 (A. G.-6). / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

[502

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 503 of 1918.

SIMLA,

21st May 1918.

503. Increase of pay for British soldiers—Incidence of cost.

It has been decided that the expenditure involved in the increase of pay for British soldiers referred to in Army Instruction (India) No. 338 of 1918 is debitable to Indian revenues so far as it relates to the normal peace strength of the British garrison in India. The adjustments in accounts will be made under "normal cost" arrangements and the Controller of War Accounts will furnish Divisional Controllers, in due course, with revised rates of "normal cost." The expenditure on separation allowances referred to in paragraph 2 of Army Instruction (India) No. 338 of 1918 is debitable to His Majesty's Government except in the following cases:—

(1) payments to families in India of soldiers on the Indian establishment (including those on the Unattached List) who are serving in India :

(2) payments to families in India of soldiers on the Indian [illegible] ed List) [illegible] Forces, [illegible] paration allowances previous to the departure of the soldier on active service :

(3) payments to families in India of soldiers (including those on the Unattached List) who are serving in Aden.

In cases (1) and (2), the expenditure should be charged to Indian revenues under the head "separation allowances" under the ordinary grants and heads of account. In case (3) it should be debited to Aden operations.

[54819 (A. G.-6). / R.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 504 of 1918.

SIMLA,

21st May 1918.

504. Free supply of tents and camp kit to chaplains on field service in, or on the frontiers of, India including Burma.

It has been decided that chaplains, detailed for field service in, or on the frontiers of, India including Burma, shall, in addition to the field allowance admissible under rule, be supplied, free of charge, with tents and camp kit on the scale laid down in the Appendix to this Instruction. The articles will be returned to store as soon as the necessity for their use ceases.

2. Tents will be issued from the arsenal nearest to the area of operations, and the articles of camp kit by the Military Works Services. Four sets of camp kit will be purchased and maintained by the Military Works Services at Rawalpindi to enable issues to be made immediately on demand.

3. The extra expenditure involved is debitable to the expedition concerned.

[15436 (A.D.) / D]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

APPENDIX.

Scale of tent and camp kit for chaplains on field service in, or on the frontier of, India including Burma.

Articles.	Per chaplain
G. S. 40 lbs. officer's tent	1
Bag for above	1
Camp pillow	1
Folding camp washstand and bath complete in bag ...	1
Camp folding chairs	2
Waterproof folding bucket	1
Valise or kit bag to contain the above camp kit	1
Waterproof sheet 7′ × 4′ 6″	1

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 505 of 1918.

SIMLA,

21st May 1918.

505 Formation of schools for training Indian regimental clerks.

Sanction is accorded to the formation of two schools for training Indian regimental clerks for newly raised units, one in the Northern and one in the Southern Command, at each of which a maximum number of 120 pupils will be trained.

2. The following staff is sanctioned for each school :—

British Officers—

1 Commandant—Pay of rank *plus* Rs. 400 per mensem staff pay.

Indian Officers (Disciplinary Staff)—

2 Pensioned Indian Officers—Pay of rank *plus* pension, free rations and clothing as for reservists called up for service.

Indian Instructors—

1 Head Instructor	...	Pay Rs. 120 per mensem (consolidated).
12 Instructors (at 1 per 10 students).	...	Pay Rs. 80 per mensem (consolidated).

Menial establishment—

4 Bhistis.
2 Sweepers.
4 Langris.
1 Peon.

} To be paid at the lowest local rates obtainable.

3. *Pupils*—

(*i*) On entering the school the pupils will be enrolled for the period of the war on India Army Form K.-1162-A. They will be graded according to qualifications and will receive pay as follows, but no issue of clothing or free rations will be admissible while at the school :—

	Per mensem.
	Rs.
1st Class	30
2nd Class	25
3rd Class	20

(*ii*) Pupils will be promoted from one class to the other under the orders of the Commanding Officer.

(*iii*) While at the school, they will be liable to discharge for incompetence or misbehaviour and also to be reduced to a lower class under the orders of the Commanding Officer.

(*iv*) When qualified, they will be drafted to units as vacancies occur.

4. On being posted to a unit as clerks they will receive pay and allowances as follows :—

1st Class (Head Clerk).—Pay of Havildar *plus* an allowance of Rs. 55 per mensem.

2nd Class (Quartermaster's Clerk or General Clerk).—Pay of Naik *plus* an allowance of Rs 40 per mensem.

3rd Class (Company or Squadron).—Pay of Sepoy *plus* an allowance of Rs. 25 per mensem.

The above allowances will be met from Regimental allowances, including the sum authorised *under Army* Instruction (India) No. 156 of 1918.

In all cases they will be entitled as clerks to free rations, clothing and other concessions which are admissible to men of the units to which they are posted.

5. The scale of furniture, office accessories and typewriters authorised for each school is shown in the Annexure to *this* Instruction.

6. Contingent and stationery allowances will be admissible as detailed below from the date on which the school is opened :—

	Per mensem.
	Rs
Contingent allowance	30
Stationery allowance	70

7. A permanent imprest of Rs. 1,000 is authorised for each school.

8. The expenditure involved is debitable to His Majesty's Government and should be adjusted through the Central War Controller.

[03479 (A. G.) / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

ANNEXURE

Articles.	Numbers per school.	Source of supply.	REMARKS.
(i) Furniture, etc.—			
Tables (5′ × 3′) ...	14	Military Works Department.	For Commandant and 13 Instructors.
Cane bottom chairs ...	2		
Chairs (barrack) ...	13		
Desks and forms ...	*24		*1 for 5 pupils.
Cupboards ...	10		
Tables (5′×4′), for typewriters.	3		
Stools for typing ..	12		
Racks with drawers ...	10		
Record racks ...	2		
(ii) Typewriters ...	12	Controller of Printing Stationery and Stamps.	6 new, and 6 built up
Cyclostyles, hand ...	2		
(iii) India Army Forms ..	...	Contractors for Printing Government of India Stock Forms.	
(iv) Army Regulations, India—		Superintendent Government Printing, India.	
Volumes I, II. ..	12 each.		
Volumes III, X, XI ...	6 each.		

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 506 of 1918.

SIMLA,

21st May 1918.

506. Provision of accommodation for the storage of free rations to be issued to Indian troops.

Army Department letter No 31044-4 (Q. M. G.-3), dated the 7th July 1917, which is reproduced as Appendix A hereto, authorised the provision, under certain conditions, of accommodation for the storage of free rations in the lines of Indian units.

2 As these ration stores are urgently required, it has now been decided that, in those cases in which suitable arrangements cannot be made for the storage of rations either by hiring or otherwise, the necessary accommodation [illegible] ucted immediately on the sca[illegible] letter referred to above an[illegible] down in Circular Memorandum No. 10-B., dated the 18th April 1918, from the Director General of Military Works, which is reproduced as Appendix B to this Army Instruction, and that such accommodation shall be maintained by the Military Works Services in all lines whether they are in their charge or not. Where ration stores are required in lines which have to be reconstructed eventually, they will be built on sites suitable to the new lay out If, however, this is not possible, the stores will be constructed of the cheapest suitable temporary type.

3. The provision of these ration stores should be treated as part of the project "Reconstruction and improvement of lines of Indian troops," and their cost debited to the Military Works grant for Special Demands.

4. It has also been decided that the portion printed in italics in the second sub-paragraph of the Army Department letter cited above shall be amended to read as follows :—

Indian Mountain Batteries, Indian Drivers of Royal Artillery Units, Companies of Sappers and Miners, Mule Corps, etc.

[31044 (Q. M. G.-3). / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

APPENDIX A

to Army Instruction (India) No. 506 of 1918.

Army Department letter No. 31041-4 (Q.M.G.-3), dated the 7th July 1917, to the Quartermaster General in India.

I am directed to refer to Army Department Notification No. 3, dated the 1st January 1917, authorisnig the issue of free rations in peace time to Indian soldiers, and to convey the sanction of the Government of India to the provision of accommodation in lines of Indian units for the storage of these rations on the following scale, and subject to the conditions specified in paragraph 2 below :—

Indian Cavalry and Indian Infantry units.—One regimental store room with a floor area of three-quarters of a square foot per man, and 4 squadron or company store rooms with a floor area of one square foot per man, of the authorised establishment of the unit.

British and Indian Mountain Batteries, Company of Sappers and Miners, Mule Corps, etc.—One regimental store room with a floor area of one square foot per man of the authorised establishment of the unit Each building should be twelve feet high and be provided with a verandah ten feet wide on one side only.

2. The accommodation should be provided by the Military Works Services on the attached specifications (1) in the case of lines not on their charge, only when those lines are taken over by them for reconstruction, and (2) in the case of lines already on their charge, only, when funds become available and it is found that no existing accommodation in bazaars or otherwise is obtainable for the purpose.

3. To meet immediate requirements, the Government of India authorise General Officers Commanding, Divisions and Independent Brigades to sanction, under their financial powers, the grant to each unit, which has to pay rent for buildings, hired for the storage of the free rations in question, an allowance equivalent to the cost of such rent, provided that no Government buildings have been erected or can be made available in the lines of the unit for the purpose of storing rations, and that the rent paid is the lowest for which adequate and convenient storage room can be obtained.

[506

SPECIFICATION.

As laid down for regimental buildings for Indian Cavalry and Indian Infantry except as follows :—

Superstructure.—Burnt brick in mud lime pointed.

Floors.—Brick flat or slabs on lime concrete.

Doors and windows.—Doors and windows battened.

APPENDIX B

to Army Instruction (India) No. 506 of 1918.

Circular memorandum No. 10-B, dated the 18th April 1918. from the Director-General of Military Works to the General Officers Commanding, Commands, Divisions and Independent Brigades.

With reference to Army Department letter No 31044-4 (Q.M.G.-3), dated 7th July 1917, the following specification should be followed when providing ration stores for Indian troops:—

(a) *Plinth.*—To be 1′ minimum height at the inner edge of the verandah, and constructed of burnt brick (or stone) in lime

(b) *Superstructure.*—To be of burnt brick (or stone) in lime to a height of 3′ above floor level; and above this of burnt brick (or stone) in mud. The interior and exterior to be lime pointed and the interior to be whitewashed.

(c) *Floor.*—To be of stone slabs or brick flat laid in lime mortar on 3″ concrete. Where slabs or bricks are not obtainable, cement concrete floors may be given.

(d) *Roof.*—As required to exclude rain and keep the store cool enough.

(e) *Joinery.*—Double 2-leaved doors to be provided; the outer to be battened and the inner of wire gauze. Windows to be glazed and provided with iron bars, if necessary. Wire gauze to be fixed on the outside of window chowkuts.

(f) *Ventilation.*—Ventilating gratings to be provided near floor level, with suitable ventilation in upper portion of superstructure which must be fly-proof.

(g) *Fittings.*—Shelves and trestles of wood or reinforced concrete to be provided, as required, as fixtures.

NOTE.—Copies of this circular have been sent direct to the Commanding Royal Engineers of Divisions and Assistant Commanding Royal Engineers of Districts and Independent Brigades.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 507 of 1918.

SIMLA,

21st May 1918.

507. Civilian clerks employed at depots. Pay and deputation allowance to count for "average emoluments" under Articles 486 and 487, Civil Service Regulations.

It has been decided that the difference between permanent pay and the pay *plus* deputation allowance drawn by civil clerks during their deputation under the terms of Army Department letter No. 9242, dated the 1st September 1916 (reproduced as an appendix to this Instruction), will be considered as a deputation (duty) allowance, and will be included in the calculation of average emoluments under Articles 186 and 487, Civil Service Regulations.

[01499 (A.G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

APPENDIX

to Army Instruction (India) No. 507 of 1918.

No. 9242, dated Simla, the 1st September 1916.

From—The Deputy Secretary to the Government of India, Army Department,

To—The Chief Secretary to the Government of { Bombay. Madras. Bengal. Bihar and Orissa the Punjab. the United Provinces of Agra and Oudh.

I am directed to state for the information of His Excellency the / His Honour the / His Honour the Governor in Council / Lieutenant Governor in Council / Lieutenant Governor that, owing to the increase of the work due to the war, clerks with accounts experience are urgently required for employment under Officers Commanding Depots of units in India. It is proposed to obtain from each province the services of 6 clerks with at least 5 or 6 years' experience in District Treasuries on pay ranging from Rs. 100 to Rs. 150 per mensem with [illegible] per cent on their salary under *Article* [illegible]. A capable senior head clerk on a [illegible] Rs. [illegible] to Rs. 400 per mensem, who should be a European or Anglo-Indian, with sufficient experience to deal with correspondence in accounts matters in an effective manner in large centres, will also be required. He will be allowed a deputation allowance of [illegible]0 per cent on his salary. The period of employment will be for one year in the first instance subject to extension if their services are still required. Clerks who know how to read and write Hindi or Urdu will be preferred.

2. I am to enquire whether the Government of Bombay / Madras / Bengal / the Punjab / Bihar and Orissa / the United Provinces can spare the services of the above number of clerks, including a head clerk for employment on the duties mentioned.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 508 of 1918

SIMLA,

21st May 1918.

508. Status and functions of the officials employed in connection with the recruitment of technical and skilled personnel for service overseas.

The recruitment of technical and skilled personnel for service overseas, which was originally controlled by the Railway Department (Railway Board), is now carried out by the officials detailed below under the direction of the Adjutant General in India:—

Assistant Adjutant General (Technical) (late Superintendent of Recruitment). All communications hitherto addressed to the latter should in future be addressed to the Adjutant General in India.

Technical Recruiting Officers (late Deputy Superintendents of Recruitment) are executive officers working directly under the orders of the Adjutant General in India and are in a similar position to Divisional Recruiting Officers. They undertake the actual recruitment and despatch to Depots of all classes of skilled and unskilled labour and are responsible that the recruits entertained have the qualifications necessary for the posts for which they are engaged.

Assistant Technical Recruiting Officers (late Assistant Superintendents of Recruitment).—Their functions are similar to those of Technical Recruiting Officers.

Chief Recruiting Officers (Railways) are Railway officials who have undertaken the duties of unpaid Recruiting Officers in addition to their Railway work. They recruit and despatch to Depots

APPENDIX

to Army Instruction (India) No. 507 of 1918.

No. 9242, dated Simla, the 1st September 1916.

From—The Deputy Secretary to the Government of India, Army Department,

To—The Chief Secretary to the Government of { Bombay. Madras. Bengal. Bihar and Orissa the Punjab. the United Provinces of Agra and Oudh.

I am directed to state for the information of His Excellency the Governor in Council / His Honour the Lieutenant Governor in Council / His Honour the Lieutenant Governor that, owing to the increase of the work due to the war, clerks with accounts experience are urgently required for employment under Officers Commanding Depots of units in India. It is proposed to obtain from each province the services of 8 clerks with at least 5 or 6 years' experience in District Treasuries on pay ranging from Rs. 100 to Rs. 150 per mensem with a deputation allowance of 20 per cent on their salary under *Article* 81, Civil Service Regulations. A capable senior head clerk on a salary of Rs 300 to Rs. 400 per mensem, who should be a European or Anglo-Indian, with sufficient experience to deal with correspondence in accounts matters in an effective manner in large centres, will also be required. He will be allowed a deputation allowance of 20 per cent on his salary. The period of employment will be for one year in the first instance subject to extension if their services are still required. Clerks who know how to read and write Hindi or Urdu will be preferred.

2. I am to enquire whether the Government of Bombay / Madras / Bengal / the Punjab / Bihar and Orissa / the United Provinces can spare the services of the above number of clerks, including a head clerk for employment on the duties mentioned.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 509 of 1918.

SIMLA,

21st May 1918

). Financial powers of local administrative officers to sanction conveyance expenses for journeys performed on duty.

Attention is invited to Army Department letters No. H.-4363, ed the 21st April 1915, and No H.-2798, dated the 13th April 16, under which local administrative officers are authorised to ction, during the period of the war, under their financial rers, charges on account of conveyance expenses for journeys formed on duty, in cases which are not precisely covered by ulations.

2. It is unnecessary and impracticable to define precisely and haustively the journeys in respect of which conveyance expenses y properly be sanctioned under the orders cited above. The tter must be left almost entirely to the discretion of the administrative authorities concerned, and the main principle which ould guide the latter is that their financial powers should be ercised solely with regard to the interests of the State. The lowing instructions are, however, issued on certain points in pect of which doubt has actually been expressed :—

(a) It is not intended that the orders should apply only in cases of journeys on duty connected directly with the war. They apply also to all other cases of journeys on military duty which arise *during the war.*

(b) It would not be correct to exercise the powers in question for the purpose of paying for the normal daily journeys of an officer from his residence to his office or other place of duty in the same station.

(c) All cases in which it is desired to grant fixed conveyance allowance, including motor car allowance, must be referred to Army Headquarters for the orders of the Government of India.

(d) In cases where travelling and detention allowances are admissible under regulations, payment of sums in excess of the travelling allowance or detention allowance admissible should not be authorised except in cases where the competent financial authority has specific power to relax a travelling allowance rule, for example in the case of a journey performed by motor car between places which are connected by rail.

5. It will be the duty of the audit officer to bring to the notice of the Government of India any instance in which he considers that there has been a breach of the intention of the orders cited in paragraph 1 above.

[8884/(Q. M. G.) D.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 510 of 1918.

SIMLA,

21st May 1918.

510. Allowance for officers' children.

With the approval of the Right Hon'ble the Secretary of ate for India, it has been decided that, with effect from the ; October 1917, and for the remaining period of the war, a chil- n's allowance shall be issuable to regimental officers of the British Service in receipt of Indian rates of pay as Captain,* Lieu- nant, or 2nd-Lieutenant, at the rate of £2 per mensem for each n under the age of 18, and each unmarried daughter under the e of 21, up to a maximum of £8 per mensem for each officer. allowance of £1 per mensem for each child will be issuable der the same conditions to regimental officers of the British rvice in receipt of Indian rates of pay as Captain when in receipt mmand allowance.

* Not when in receipt of command allowance.

2. Regimental honorary commissioned officers will receive the gher rate of allowance, *i.e.*, £2 in respect of each child, up to a aximum of £8 per mensem, irrespective of rank.

3. Payment will be limited to legitimate children and step- ildren together with any other children of officers having served the ranks who under the rules applicable to soldiers' children ere then eligible for separation allowance.

Claims on account of children adopted prior to the 1st Octo- r, 1917, and not provided for above, should be forwarded to e local Controller of Military Accounts for submission to the overnment of India.

Claims on account of children adopted between the 1st October, 917, and the date of this Instruction may also be put forward r special consideration.

4. An officer with more than four eligible children will be entitled to claim the allowance for any four of his children who are eligible.

5. In any case where a compassionate allowance from public funds is being issued in respect of a step-child or of an adopted child for whom children's allowance is granted the total payment from public funds will not exceed the maximum issuable under the regulations for either the compassionate allowance or the children's allowance, whichever is the greater. Officers will be required to furnish information as to any such compassionate allowances issuable for children in respect of whom claims are submitted for an allowance under these regulations.

6. Payments will be made until children attain the age of 18 in the case of sons and 21 in the case of daughters, if the officer remains so long on full pay or half-pay, but will cease in the event of the marriage of daughters at an earlier age. The allowance will be admissible in respect of sons who are cadets at the Royal Military Academy, the Royal Military College, or at the Royal Naval Colleges at Dartmouth and Osborne, except in those cases in which no payments are required from the parent.

7. Where mental or physical infirmity which prevents a son or daughter from earning his or her own living *exists before reaching the age limit* referred to in paragraph (6), and *is of a* permanent nature, children's allowance will be issuable irrespective of the foregoing age limit. The rules for such cases *will follow* generally, except as regards the age limit, those *laid* down in paragraph 49 of the Separation Allowance Regulations. Application for the grant of the allowance beyond the usual age limit will be forwarded to the local Controller of Military Accounts for submission to the Government of India. The issue of the grant will be subject to verification of the circumstances and to the rendering of periodical certificates.

8. Payment will be made by the Controller of Military Accounts from whom officers draw their pay unless the officer otherwise direct. The allowance will be issuable monthly with the officer's pay for the month, and will be subject, so far as recoveries, taxation and other general conditions are concerned, to the rules in force as regards pay in so far as they are applicable.

9. Rank for the purpose of determining to what rate of children's allowance (if any) the officer is entitled, will in all

be the rank, whether substantive, temporary or acting, of which the pay is drawn for the period in question.

10. Children's allowance will continue to be issuable for officers transferred in future to half-pay so long as they remain on the active list. The allowance will be issued by the Agents by whom full pay was last issued. Officers of the active list now on half pay will be eligible for children's allowance at the rate and under the conditions applicable to officers on full pay, their status when last in receipt of full pay being taken as determining the rate of allowance (if any) issuable; these officers will submit their applications to the Agents from whom they last drew full pay.

11. Original applications for the grant of the allowance authorised by this Instruction will be made on Army Form W.-3697 or W.-3698 (modified for India) in accordance with paragraphs (12) and (13). The necessary forms will shortly be obtainable from Contractors for printing Government of India forms (through the Superintendent of Government Printing, India, Calcutta). If the officer is serving in India the application form must be signed by himself. For an officer serving abroad or who is a prisoner of war, the application form may be signed by his wife or other person authorized by him to act on his behalf.

12. In the case of an officer, whether now holding a commission or commissioned in future, who has *not* served in the ranks since the 4th August, 1914, or who while so serving had no child eligible for separation allowance, Army Form W.-3697 (modified for India) will be used. It will be forwarded by the officer or his representative direct to the Controller of Military Accounts issuing the officer's pay, accompanied by marriage and birth certificates.

13. In the case of an officer whether now holding a commission [illegible] ranks [illegible] whose [illegible] drawn, Army Form W.-3698 (modified for India) will be used. It will be forwarded by the officer or his representative to the Regimental Paymaster or Controller of Military Accounts who last issued the officer's pay before he was commissioned. The Regimental Paymaster or Controller of Military Accounts will check the particulars at Table "A" of the Army Form, after a reference in Territorial Force cases to the Association concerned—*see* Army

Order 21 of 1915. He will then certify as to the particulars which have been verified, and will transmit the claim to the Controller of Military Accounts issuing the officer's pay as shown on the form.

14. The officer will be responsible that a notification is made to the Controller of Military Accounts concerned without delay by himself or his duly authorized representative of any circumstance, *e.g.*, death of a child, or marriage of a daughter—affecting the issue of the allowance.

15. In the case of officers reported as dead or missing prior to the date of this Instruction no application for children's allowance will be required. The necessary steps will be taken by the Controller of Military Accounts concerned.

16. A claim for an additional grant on the birth of a child will be made on Army Form W.-3697 (modified for India) and will be forwarded direct to the Controller of Military Accounts issuing the officer's pay, accompanied by a birth certificate.

17 The marriage and birth certificates will be returned in due course to the officer or his representative by whom they were rendered. No payment from Army Funds will be allowed in connection with the provision of these certificates.

18 On change of payment of an officer, last pay certificates will contain information as to the issue of children's allowance and be accompanied by the original allowance documents in possession of the Controller of Military Accounts.

19. Charges for the allowance will be classified to the head and sub-head bearing the pay of the officer concerned.

20. The process of verification, etc., of applications will necessarily occupy some time. The Controller of Military Accounts will notify the officer or his representative making the application when the first issue of the allowances due has been placed to the officer's credit and is available for his use. The notification to officers will be accompanied by a form on which the officer may authorize payments on account of the allowance to his wife or other representative.

[02192 (A. O.) / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

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GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 511 of 1918.

SIMLA,

21st May 1918.

511. Formation of a Veterinary Assistants' Branch of the Indian Subordinate Veterinary Corps.

With the approval of the Right Honourable the Secretary of State for India, it has been decided to form a Veterinary Assistants' Branch of the Indian Subordinate Veterinary Corps. The Corps will consist of 219 veterinary assistants (including a reserve of 25 per cent) and will be distributed over the various grades, and among the different units, etc., as shown in Appendix III.

2. Veterinary assistants now serving in the various branches of the Army in India, with the exception of those employed in the Army Remount Department, will, subject to their consent, be transferred forthwith to the above branch on the terms shown in Appendix I.

3. The terms and conditions of service for new enrolments in this Branch are shown in Appendix II.

4. The extra expenditure involved is estimated at Rs. 68,109 initial and, ultimately, Rs. 1,03,018 annual recurring, and is debitable to the ordinary grants and heads of accounts affected. Further instructions will be issued showing how the expenditure likely to be incurred during the current year will be met and allocated to the several Divisions.

[37288 (Q.M.G.) / D]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

APPENDIX I.

Terms of transfer for Veterinary Assistants now serving in the various branches of the Army in India, with the exception of those employed in the Army Remount Department, to the Veterinary Assistants' Branch of the Indian Subordinate Veterinary Corps.

Unit.	Present Status.	Status in the Indian Subordinate Veterinary Corps.	Remarks.
Silladar Cavalry ...	Senior Salutri with rank of Jemadar.	Jemadar	Provided they have graduated at an Indian Veterinary College.
Ditto	Senior Salutri not holding rank of Jemadar.	1st class Veterinary Assistant.	Provided they have graduated at an Indian Veterinary College.
Ditto	Salutri	2nd or 3rd class Veterinary Assistant according to length of service and date of qualifications.	Provided they have graduated at an Indian Veterinary College.
Indian Mountain Batteries	Salutri	2nd class Veterinary Assistant.	Provided they have graduated at an Indian Veterinary College.
Ditto	Salutri	3rd class Veterinary Assistant.	If having undergone only a modified course at an Indian Veterinary College.

Supply and Transport Corps.	1st grade Veterinary Assistant ranking as Jemadar.	1st class Veterinary Assistant (a).	(a) These Indian ... may ... transfer to the Corps and will retain their present rank, and remain on their present terms of service, but will be eligible to be promoted to Senior Veterinary Assistants in the Indian Subordinate Veterinary Corps on passing the necessary qualifying examinations, etc, otherwise, they will be included in the cadre of 1st Class Veterinary Assistants, Indian Subordinate Veterinary Corps, but will be graded senior in that class. (If placed in charge of Transport Corps they will, in the Indian Subordinate Veterinary Corps, receive charge pay at Rs. 10 a month.)
Ditto ...	2nd grade Veterinary Assistant ranking as Warrant Officer.	2nd Class Veterinary Assistant (b).	(b) These men may be transferred to the Indian Subordinate Veterinary Corps in the grade of 2nd Class Veterinary Assistants ranking as Warrant Officers on pay of Rs. 75 a month and, when in charge of Corps, etc., will receive charge pay at Rs. 10 per mensem.
Ditto ...	3rd and 4th grade Veterinary Assistants.	3rd class Veterinary Assistants (c).	(c) These men may be transferred to the Indian Subordinate Veterinary Corps in the grade of 3rd class Veterinary Assistant, ranking as Warrant Officers, on pay of Rs. 60 per mensem.

NOTE.—(i) All appointments to the Corps including transfer of temporary men should, during the period of the war, be considered as temporary, and not be made permanent until six months after the declaration of peace. In the meantime, men transferred to the new corps will be placed in the various classes as shown above, and will take seniority in those classes according to the dates on which they graduated.

Future promotions will be governed by the terms and conditions of service shown in Appendix II.

NOTE.—(ii) All transfers are voluntary; but a man, once having elected transfer, will not be permitted to revert to his original terms of service.

APPENDIX II.

Terms and conditions of service for the Veterinary Assistants' Branch of the Indian Subordinate Veterinary Corps.

1. The Veterinary Assistants' Branch will be divided into:—

(1) *Indian Officers.*—Senior Veterinary Assistants.—

1st class, with the rank of Ressaldar; 2nd class, with the rank of Jemadar.

(The proportion of Indian officers will not exceed 10 per cent. of the total authorised establishment of the Branch, and will be equally divided between the two classes of Senior Veterinary Assistants.)

(2) *Indian Warrant Officers.*—Veterinary Assistants, 1st, 2nd and 3rd class.

2. The establishment of Military Veterinary Assistants will be maintained to fill:—

(a) Military appointments, *viz.*, Class II Station Veterinary Hospitals, Indian Artillery, Indian Cavalry, Transport Units, Engineer Units, etc, with the authorised reserve of 25 per cent

(b) Certain civil appointments, Imperial Service Troops with the authorised reserve of 25 per cent.

3. *Recruitment.*—Military Veterinary Assistants will be recruited as far as possible from military students at Veterinary Colleges and Schools. Applications for admission to a Veterinary College as a military student will be made by the Officer Commanding the man's unit on India Army Form X.-1835, to the Quartermaster-General in India through the General Officer Commanding Division, Divisional Area or Independent Brigade.

4. Military candidates, for admission to the different Veterinary Colleges, will be selected annually by the Quartermaster-General in India from the list of men submitted by the various regiments, services and departments, as laid down in paragraphs 61-68, Army Regulations, India, Volume VIII.* Candidates must bear a good character, be physically fit for service, under the age of 25 years, be of the required educational standard and be recommended by the officer commanding their unit, who will satisfy

*These paragraphs are under revision.

nself that they will benefit by the instruction given at a Veteri-ry College or School.

5. Those who are selected and sign a declaration in the form inexed will be admitted to the Punjab Veterinary College, or her selected Veterinary College, or School, and entered as Indian ilitary pupils to undergo a course of training for veterinary sistants. If they are reported qualified, they will be gazetted to ie Indian Subordinate Veterinary Corps, graded according to the aces they have taken at the final college examination, and signed official numbers. The Director of Veterinary Services ay remove from the College, and withhold the certificates of any ipil who fails at any examination, or misconducts himself. ilitary Veterinary Assistants will not be given their certificates itil the close of their service, and should a man be dismissed or scharged for misconduct or inefficiency before completing seven ears' service as a veterinary assistant, his certificates will be together withheld. Students gazetted into the Indian Subordi-ate Veterinary Corps may retain the books issued to them whilst College or School, the selection of the books to be retained ing left to the discretion of the Principal of each College or hool.

6. Examinations for promotion will be held annually under-rangements made by the Director of Veterinary Services.

The subjects for these examinations will be Regulations, irgery and Surgical Applied Anatomy, Diseases of cattle, sheep nd camels, Medicine, Materia Medica and Hygiene. Promotion the next grade will be withheld until all subjects in this examin-ion have been passed.

When candidates fail in several subjects, or do very badly in ne, the Director of Veterinary Services may direct that they shall ot be permitted to re-appear at the next succeeding examination.

If well reported upon, Veterinary Assistants will be promoted follows :—

(a) To Veterinary Assistants, 2nd class. (b) To Veterinary Assistants, 1st class.	After 3 years in the 3rd and 5 years in the 2nd class, respectively, subject to passing the examination mentioned above.
(c) Senior Veterinary Assistants, 2nd class. (d) Senior Veterinary Assistants, 1st class.	By selection from amongst Veterinary Assistants who have passed a post graduate course at a selected Veterinary College or School.

7. A Veterinary Assistant degraded by sentence of a Court Martial will, if restored to his former class, be re-examined, if he passed more than two years before his restoration. If not previously qualified, he may be examined at the same time as the subordinate above him.

8. Indian officers and warrant officers of the Indian Subordinate Veterinary Corps will take precedence as under :—

Senior Veterinary Assistants, 1st and 2nd class, after senior Sub-Assistant Surgeons, 1st and 2nd class.

Veterinary Assistants, 1st class, after Sub-Assistant Surgeons, 1st class.

Veterinary Assistants, 2nd class, after Sub-Assistant Surgeons, 2nd class.

Veterinary Assistants, 3rd class, after Sub-Assistant Surgeons, 3rd class.

9. Veterinary Assistants in the Indian Subordinate Veterinary Corps will receive the following rates of pay, privileges and allowances :—

(1) *Pay.*

Veterinary Assistants.

Indian Warrant Officers.

	Pay.	*Field allowance
	Rs.	Rs.
3rd class	60	5
2nd "	75	5
1st "	95	10

Senior Veterinary Assistants.

Indian Officers.

	Pay.	Field allowance
	Rs.	Rs.
Senior 2nd class	110	15
" 1st "	125	15

*Note.—Field allowance (which includes cost of conveyance of baggage when marching by road) is admitted—

(1) When travelling on duty, on field or foreign service, and while in camp on account of outbreaks of disease amongst military animals. The allowance is inadmissible while at or moving to and from camp of instruction.

(2) When serving at Port Blair, Aden and Burma.

(3) When attached to the Viceroy's Body Guard.

(2) Free quarters or compensation in lieu, Army Regulations, India, Volume III, Appendix VI.

(3) Compensation for dearness of provisions on the combatant scale.

(4) Grant of free quarters or of compensation in lieu to the families of Veterinary Assistants on field or foreign service at Rs. 8 per mensem for members of the 3rd and 2nd class and Rs. 12 per mensem for members of the 1st class and senior grades.

(5) Grant of Rs. 10 per mensem for charge of an Indian Cavalry regiment, Transport Corps, Indian Mountain Battery or Class II Station Veterinary Hospital.

(6) The following extra pay is included in rates of pay laid down for Veterinary Assistants and Senior Veterinary Assistants, Indian Subordinate Veterinary Corps, and will be deducted until they have qualified in English :—

Rate of English Qualification Grant :—

Senior Veterinary Assistants.

	Rs.
1st class	30
2nd class	25

Veterinary Assistants.

	Rs.
1st class	20
2nd class	10
3rd class	5

Veterinary Assistants will be examined in the following subjects for their English qualification :—Reading and writing (including prescriptions), dictation and simple arithmetic. They will be examined by the officer by whom they are being examined for promotion, or by an officer of the Army Veterinary Corps when they first join the Indian Subordinate Veterinary Corps if they have not been passed at their Veterinary College or School.

(6) Furlough and leave rules will be as laid down in paragraph 269, Army Regulations, India, Volume II.

NOTE.—Only 75 [illegible]
full pay leave (salai [illegible]
compensation for qua [illegible]
quarters) [A. R. I., [illegible]

10. Veterinary Assistants will be eligible for the following distinctions and rewards :—

(a) Meritorious service medal under the conditions laid down in Army Regulations, India, Volume I, paragraphs 995 to 999.

(b) Indian Order of Merit (Army Regulations, India, Volume I, paragraph 1006).

(c) Order of British India (Army Regulations, India, Volume I, paragraph 1005, and Volume II, paragraph 361).

(d) War medals and gratuities as for combatants.

(e) Victoria Cross, as laid down in paragraph 1004-A, Army Regulations, India, Volume I.

(f) Military Cross, as laid down under paragraph 1004-B, Army Regulations, India, Volume I.

11. *Pensions and gratuities.*

Retiring and invalid pensions and gratuities as laid down in paragraph 1044 (a) (iii) (c), Army Regulations, India, Volume I.

Wound, injury and family pensions and gratuities as laid down in paragraphs 1060 and 1073 for Sub-Assistant Surgeons.

12. The uniform of the Indian Subordinate Veterinary Corps will be described in Army Regulations, India, Volume VII, and the rates of annual clothing allowance will be the same as authorised for Senior Sub-Assistant Surgeons and Sub-Assistant Surgeons in Army Regulations, India, Volume XI, paragraph 151.

13. Senior Veterinary Assistants and Veterinary Assistants of the Indian Subordinate Veterinary Corps will be supplied with ponies by Government both in peace and war.

14. Applications to resign the service from Veterinary Assistants with less than seven years' service as such will only be considered if the applicant is prepared to refund Rs. 1,000.

15. When in the annual confidential report it is reported that the retention in the service of a Veterinary Assistant of less than three years' service is undesirable, and unlikely to be advantageous to the State, he will, in the first instance, be transferred to a new station, and then, after an interval of six months, be reported on by a Committee of three officers, Army Veterinary Corps. If this Committee recommends his removal from the service, he will be dismissed without the enforcement of the penalty laid down in paragraph 14.

Declaration to be signed by a military candidate before admission to a Veterinary College or School as an Indian military pupil.

I   born at

on the

declare that [illegible] I will serve in the Indian Subordinat[illegible] as my services may be required in [illegible]anch thereof. I farther declare that I will be faithful to His Majesty, His Heirs and Successors, and will go wherever I am ordered, by land or sea, and obey all commands of officers set over me. I am aware that I shall remain subject to the Indian Army Act and that I shall not be permitted to resign the service at my own request until I have served seven years as a Veterinary Assistant, unless I refund the penalty of Rs 1,000 and even then only if the exigencies of the service, of which the Quartermaster-General in India shall be the sole judge, will admit of my discharge.

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APPENDIX III.

Total proposed number of Veterinary Assistants required.

12 Indian Mountain Batteries at 1 each ...		12
36 Indian Cavalry at 2 each		72
Supply and Transport Corps—		
21 Mule Corps at 2 each	42	
18 Mule Cadres at 1 each	18	
8 Silladar Camel Corps at 2 each	16	
4 Grantee Camel Corps at 1 each	4	
Local Transport Units	11	
		91
Total ...		175
Add 25 per cent reserve ...		44
Total ...		219

of whom 10 per cent will be Senior Veterinary Assistants equally divided between two classes.

The proposed cadre will, therefore, eventually be :—

11 1st class Senior Veterinary Assistants.

11 2nd " " " "

197 { 1st " Veterinary Assistants.
2nd " " "
3rd " " " }

The numbers for each class of Veterinary Assistants cannot be stated, as promotion will be by time-scale.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 512 of 1918.

SIMLA,
21st May 1918.

512. Transfer of the Royal Naval Air Service and Royal Flying Corps to the Royal Air Force.

With reference to Army Department Notification in the *Gazette of India*, No. 689, dat[illegible] Air Force Memorandum No. 1, r[illegible] transfer of the Royal Naval A[illegible] to the Royal Air Force, is [illegible] Instruction for the information of all concerned.

[439 (O.B A). / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

ANNEXURE.

Air Force Memorandum

TRANSFER OF THE ROYAL NAVAL AIR SERVICE AND ROYAL FLYING CORPS TO THE ROYAL AIR FORCE.

This pamphlet is issued by the Air Council in order to give officers and men now serving in or attached to the Flying Services a general view of the conditions of service in the Air Force, together with a statement of the rates of pay, etc., which will be in force.

PROCEDURE FOR CONSTITUTION OF THE AIR FORCE.

1. The Air Force (Constitution) Act, 1917, provides that any officer, warrant officer, petty officer, non-commissioned officer or man who, on a date to be prescribed, belongs or is attached to the Royal Naval Air Service or the Royal Flying Corps, may be transferred or attached to the Air Force without his consent. This date will be fixed by Order in Council.

2. It is also provided that any person transferred or attached may within three months from the time when he receives notice of such transfer or attachment or such longer period as in any particular case the Air Council may allow, give notice to his commanding officer that he does not desire to be so transferred or attached, and in that case the transfer or attachment is to be annulled without prejudice to the validity of anything which may have been done in the meanwhile.

3. The date from which transfer or attachment takes effect will be fixed by an Order of the Air Council, which will be made with the consent of the Admiralty and Army Council, and will be promulgated in the various commands, theatres of war and countries overseas, where members of the Flying services are serving. Transfer or attachment will take effect on the date prescribed in the Order of the Air Council. The period of three months referred to in paragraph 2 will run from the date prescribed in the Order of the Air Council or, in cases where this Order is not promulgated until after the date prescribed in the Order, from the date of such promulgation.

4. Officers and men will become subject to the Air Force Act from the date of their transfer or attachment to the Air Force.

5. The Act provides that the duration of *attachment* to the Air Force shall be the period of the present war, or a period not exceeding four years, and that no person *transferred* shall be liable to serve with the Air Force for any longer period than that for which he would have been liable to serve had he continued in the Force from which he was transferred. Officers and men attached will be kept for whichever period (duration of war or four years) is the longer.

*6. In the case of any person *transferred* to the Air Force, for the purposes of pay, pensions, gratuity, and retired or half-pay, and of any decoration or reward dependent on length of service, any previous service with His Majesty's naval or military forces which would have counted as service towards pay, pension, gratuity, retired or half-pay, or such decoration or reward if he had not been so transferred, will be deemed to be service with the Air Force towards pay, pension, gratuity, retired or half-pay, or such decoration or reward.

*7. In the case of any person *attached* to the Air Force, the fact that he is so attached will not affect any right to any pay, pension, gratuity, retired or half-pay, or such decoration or reward as aforesaid, already earned by him in that branch of His Majesty's naval or military forces to which he belonged at the date on which he was so attached, and the period during which he is so attached shall, for the purpose of any provisions relating to pay, pensions, gratuity, retired or half pay, or such decoration or reward, be deemed to be service with that branch of His Majesty's naval or military forces to which he belonged at the date on which he was so attached.

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*The position of officers of the Indian Army and of the Indian Army Reserve [illegible]

[illegible] transfer or attachment. Officers of the Indian Army and Indian Army Reserve will in due course be informed individually what their position will be on transfer or attachment.

CONDITIONS APPLICABLE TO ALL RANKS.

7A. Every officer or man serving in the Air Force will, if medically fit, be liable to be called upon to go into the air, either in airships, aeroplanes or kite balloons.

7B. Every officer or man serving in the Air Force will be liable to be ordered to any station, at home or abroad, if considered medically fit for such service.

GENERAL RULES AS TO EMOLUMENTS—ALL RANKS.

8. While it is impossible to pledge the future as to the prospects of individuals, and while reasonable latitude must be reserved to the Air Council to deal with any privileges or emoluments (such as allowances) which are not subject to vested rights, it may be taken as a governing principle that no officer or man will suffer during the war by reason of transfer to the Air Force, in respect of the pay and pension of the substantive, temporary or acting rank held by him in the Navy or Army immediately before transfer; an officer or man, however, may be required to relinquish his temporary or acting rank under the existing rules of the Services. Nor will officers or men suffer [illegible] the war in respect of the pay [illegible] them on the date of such revis[illegible] that certain concessions in regar[illegible] only been authorised for the peric[illegible] war, and this limitation must equally apply to such emoluments in the Air Force. Officers and men who are merely lent, as a purely temporary measure, to the Air Force, are not dealt with in this pamphlet.

9. *Scales of pay.*—The rates of pay of officers and other ranks in the Air Force are set out in Appendices IA, IB, IC, and IIA, IIB, IIC, which also show the corresponding ranks and appointments in the existing Flying Services.

All officers who are transferred or attached to the Air Force will (subject to their not drawing less than their existing rates under para. 8) be paid at the rate of pay appropriate to the appointment in the Air Force to which they are assigned and not necessarily at the rate of pay in the Air Force which their own rank would carry under Appendix IA. They will, of course, draw the rate which their rank would give under that Appendix if and when they take up an [illegible] All officers who [illegible] of which they [illegible] ent to the Air [illegible]

10. *General rule as to allowances.*—Allowances generally will be at Army rates and under Army regulations. These allowances will be revised from time to time as may be necessary, to adapt them to the circumstances of the Air Force. Typical rates are shown in Appendix III, as a general guide. Navy allowances (other than separation allowance) will apply in the case of officers and men while actually borne on the books of *His Majesty's* ships.

11. *Officers' Children's Allowance.*—This allowance will be issuable during the war at the same rates and under the conditions already authorised (see Appendix III.)

12. *Separation Allowance. Men* — Separation allowance willl be issuable at Army rates

Appendix III shows how the allowances in the case of men transferred from the Navy will be adjusted on transfer.

13. *Disability Pensions.*—These are administered by the Ministry of Pensions. The general position is that no officer or man will lose in his present rank on transfer.

14. *Pensions for Length of Service, Half-pay, etc.*—*See* para. 7 above. Details of pensions for length of service, of half-pay, etc., have not been finally settled, but a general guarantee is given that pension rights for officers on a permanent commission, or men on a regular engagement, transferred or attached to the Air Force, will be at rates not less favourable than those that can be earned in the Navy and Army.

15. *Income Tax.*—Steps have been taken to secure for officers and men of the Air Force Income Tax reliefs similar to those granted under recent Finance Acts to members of the naval and military forces.

These reliefs include reduced rates of tax, exemption where the total income does not exceed £160, an abatement allowance of £160 where the total income does not exceed £300, etc.

16. *Prize Money and Prize Bounty.*—Officers and men of the Royal Navy and R.N.A.S if entitled, at the date of transfer or attachment to the Air Force, to prize money under the regulations which may be approved for its distribution, will not forfeit their claims by such transfer or attachment.

17. *War Gratuity* —The position of officers and men of the Army transferred or attached to the Air Force will not, by reason of their transfer or attachment, be altered as regards any claim they might otherwise have had to participate in any war gratuity, the issue of which may hereafter be sanctioned by His Majesty's Government.

CONDITIONS APPLICABLE TO ALL OFFICERS.

18. All officers transferred or attached on the formation of the Air Force will be placed on a gradation list, which will fix their seniority in the Air Force.

In drawing up the Gradation List consideration has been given to the permanent, temporary or honorary rank held by each officer.

[illegible]

In grading temporary officers consideration has been given to their temporary or acting rank, whether gained in the R.N.A.S. or R.F.C. or in other branches of the Services. Unless for exceptional reasons, those who have not held their present temporary rank for more than a certain period are graded in the rank below, and given temporary rank of their present grade.

Owing to the difference between old and new ranks and scales of pay, it has been found that certain officers, if graded in their present permanent or

temp [illegible] higher than those they now [illegible] In these cases they have [illegible] rate of pay and grant [illegible] promotion of the Air Force.

In certain cases the Air Council have made special promotions to meet the needs of the Air Force on its formation.

The list has been compiled by the senior officers of the two Services, and each individual case has been considered, although, in view of the fact that all promotions in the Air Force above the rank of Lieutenant, will be by selection, the exact order of seniority in the different ranks is not of so much importance as in the older Services. It is not improbable that there may be errors in the list, and attention should be drawn to these through the usual channels.

19. All officers (other than those under instruction) who are transferred or attached to the Air Force from the Navy or Army, will, in order to give them authority under the Air Force Act, receive temporary commissions in the Air Force for the period for which they are transferred or attached.

20. In the event of the services of an officer attached to the Air Force proving unsuitable, the Air Council may arrange with the Admiralty or Army Council for his return to his original service.

21. A limited number of permanent commissions in the regular Air Force will be given to such officers (whether transferred or attached) as apply for, and are selected for, permanent transfer.

CONDITIONS APPLICABLE TO SPECIAL CATEGORIES OF OFFICERS.

22. Officers of the following categories, *viz* :—

Regular officers.—Navy and Royal Marines ;

Officers holding other than temporary commissions in R.N.R. & R.N.V.R. ;

Regular officers.—Army and Indian Army ;

Officers of the Reserve of Officers ;

Officers of the Special Reserve of Officers (except Special Reserve, R.F.C.) ;

Officers of the Territorial Force ;

Officers of the Territorial Force Reserve ;

Officers attached to the R.N.A.S. or R.F.C. under any special order of the Admiralty or Army Council,

who on the date prescribed by the Order in Council (*see* para. 1) were attached to the R.N.A.S. or R.F.C., will, subject to their rights under Section 3 of the Act (para. 2), be attached to the Air Force.

23. Officers of the above categories who exercise the right to object to attachment (*see* para. 2) will revert to naval or military service.

24. Officers of the following categories, *viz.*,

Officers holding temporary commissions in the Royal Marines R.N.V.R., R.N.R. and R.N.A.S.;

Temporary officers on the General List of the Army and Indian Army;

Officers of the Indian Army Reserve;

Officers of the Special Reserve of the Royal Flying Corps;

Officers attached to the R.N.A.S. or R.F.C. under any special order of the Admiralty or Army Council,

who on the date prescribed by the Order in Council (*see* para. 1) belonged to or were attached to the R.N.A.S. or R.F.C. will, subject to their rights under Section 3 of the Act, be transferred to the Air Force.

25. Temporary R.N.V.R., R.N.R. and R.N.A.S. officers who have not served with a commission in any branch of the Royal Navy except the R.N.A.S., will, if they refuse to be transferred to the Air Force, have no claim to be accepted by the Admiralty as commissioned officers in another branch of the Navy.

[illegible] R.F.C. Special Reserve who refuse to be transferred [illegible]

27. Temporary officers on the General List of the Army who have not served while holding a commission in any branch of the Army except the R.F.C., will, if they refuse to be transferred to the Air Force, have no claim to be accepted by the Army Council as commissioned officers in another branch of the Army.

CONDITIONS APPLICABLE TO ALL RANKS OTHER THAN OFFICERS.

[illegible] petty officers, air mechanics, [illegible] te prescribed by the Order in [illegible] hed to the R.N.A.S., and all [illegible] n and boys who, on the same [illegible] will be transferred to the Air [illegible] the Order of the Air Council referred to in paragraph 3.

Royal Fleet Reserve ratings will be attached only.

[illegible] the Air Force under the preceding [illegible] rresponding rank in the Navy and [illegible] These ranks are set out in Appen- [illegible]

AIR MINISTRY.

1st March 1918.

APPENDIX IA—PAY OF OFFICERS.

1. The rates of pay (and classification for allowances) of officers of the Air Force are as shown in the following table. The annexed tables (Appendices IB and IC) show the Air Force rank into which the various ranks or appointments in the present Flying Services will be translated. (See notes on page 9.)

Classification for allowances (see App. III.)	Rank.	Staff on Air Force Commands. Yearly Rates (Consolidated)*.	Flying Branch. Daily Rates.		Technical Branch. Daily Rates.		Administrative Branch.† Daily Rates.
			Basic.	Flying.	Basic.	Technical.	
1-2	General ...	£ 2,500	—	—	—	—	—
	Lieutenant-General	2,000	—	—	—	—	—
3	Major-General ...	1,500	—	—	—	—	—
4	Brigadier-General	1,000	—	—	—	—	—
5-6	Colonel ...	900	—	—	—	—	—
8	Lieutenant-Colonel	751	40s.	—	—	—	35s.
10	Major ...	550	—	—	(Class A, 40s.) (Class B, 35s.)	—	24s.
		500	32s.	—			
12	Captain ...	400	19s.	8s.	24s.		21s. 4d.
			After 1 year's service in the rank, 20s.	—	17s.		15s. 6d.
					1s. additional for each completed year's service in the rank up to a maximum of 20s.	2s., 4s., 6s. or 8s.	17s. 6d. after 3 years' service in the rank, subject to 12 years' total service.

14	Lieutenant ...	350 300 250	1 - 1s. additional for each completed year's service in the rank, up to a maximum of 16s.	8s.	12s. 1s. additional for each completed year's service in the rank, up to a maximum of 16s	2s. 4s. or 6s.	11s., 6d.
14	Second Lieutenant	—	10s.	8s ‡	10s.	2s. or 4s.	10s. 6d
14	Probationers ...	—	7s. 6d.	4s.	7s 6d.	Nil.	7s. 6d

* These rates are subject to deductions when the officer is provided with public quarters.
† Including Instructional Officers, non-flying and non-technical.
‡ Subject to graduation as Pilot, up to which time 4s. will be drawn.

NOTE.—" Service in the rank " in the above table (in the case of officers joining from the existing services) means service in the *appointment*; *e.g.*, service in the rank in another arm of the service would not reck on, nor would service given in a Flying Services appointment carrying a lower rank.

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2. The rates for Staff Officers are shown as consolidated only, but it may be necessary to arrange that the emoluments of Staff Officers abroad shall be issued in the usual form of ordinary pay and local allowances.

3. Special inclusive rates of [illegible]

4. Similarly, existing quartermasters, if transferred, will continue at existing rates, unless appointed to an Air Force rank.

5. Flying pay is not issuable to officers on consolidated rates, but otherwise the regulations governing the issue of flying pay will continue subject to any necessary modifications in details. Details will be published in Air Force regulations in due course.

6. The existing rights of Reserve officers of the Flying Services to the gratuity of £150 for each year of service will continue, as also will the right of temporary officers of the Army to the gratuity based on length of service under the Pay Warrant.

7. The pay of officers will be issued in arrear. In order to overcome any inconvenience thus caused to army officers now drawing pay in advance, the agents will be authorised to issue to such officers, on application being made, an advance of any gratuity to which they may be entitled under the Pay Warrant on the expiration of their service. The advance will not exceed one month's pay. In the case of officers not entitled to a gratuity as above, the agents will advance one month's pay, on request, for a period not exceeding six months, without interest.

8. The following firms have been appointed Air Force agents for the issue of pay and allowances to officers of the Air Force:—

Messrs. Cox and Co, 16, Charing Cross, London, S. W., for Staff and Flying Branch.

Messrs. Holt & Co., 3, Whitehall Place, London, S W., for Technical and Administrative Branches.

The present practice of issuing the pay of R.N.A.S. Officers through Naval Paymasters will cease. Instructions will shortly be issued for general guidance as to the opening of individual accounts with Air Force agents and as to the time and method of giving effect to the change referred to in para. 7.

9. The issue of allotments of pay by the [illegible] transferred or atta[illegible] their own arrangen[illegible] of children's allowa[illegible]

10. A certain number of R.F.C. Officers performing non-technical administrative duties were graded on appointment or promotion as E.Os. or Park Commanders. Such officers will, under the new régime, be appointed Administrative Officers and be paid as such, subject to reserved rights to existing rates of pay if higher.

11. Commissioned Warrant Officers and Warrant Officers of the Navy come over as commissioned officers of the Air Force. They are at present entitled to (Navy) rates of separation allowance and in some cases to store allowance, and as their pay in the Air Force plus officers' children's allowance may be less than the total Naval emoluments, their case will be dealt with as follows. Where the total Air Force emoluments are more beneficial, they will be drawn. Where they are less beneficial the officers will continue to receive the Navy pay and separation allowance, etc., which they are at present drawing. When for any reason the Air Force emoluments become more beneficial, e.g., on promotion, the Navy emoluments will be finally cancelled

APPENDIX Iв.—PRESENT RANKS AND GRADINGS.

R N.A.S.			R.F C.		
Flying.	Technical	Administrative.	Flying.	Technical.	Administrative.
Wing Cmdr. Wing Observer.	Cmdr R.N V R	Fleet Paymaster. Naval Instr. of 15 yrs. senty Cmdr. R.N.V R	Wing Cmdr. (Lt.-Col.)	Depot Cmdr. (Lt.-Col).	
Sqdn. Cmdr. (Lt. or Lt.-Cmdr.) Sqdn. Observer.	Lt.-Cmdr. R N.V.R.	Staff Paymaster Naval Instr. of 8 yrs. senry.	Sqdn Cmdr. (Major).	Park. Comdr. (Major).	—
Flt Cmdr. (Lieut). Flt. Observer.	Lieut. R.N.V.R.	Paymaster. Asst Paymaster of 4 yrs. senry Naval Instr.	Flt Cmdr. (Captain).	E. O. (1) (Captain).	Wing Adjt. (Captain).
Flt. Lieut. (Lieut.) Observer Lt. Flight Sub-Lt. Observer Sub.-Lt.	W.O., 1st Class.		Flying Officer, 2-Lt. or Lt Flying Officer, Observer (2 Lt or Lt)	E O. 2- (Lieut)	A. Adjts. draw pay of substantive rank *plus* extra duty pay.
	W.O., 2nd Class.			E O. 3 2-Lieut	
Probationary Flt. Officer. Probationary Obser Officer.			2-Lieuts. on probation.		

2. The rates for Staff Officers are shown as consolidated only, but it necessary to arrange that the emoluments of Staff Officers abroad shall be in the usual form of ordinary pay and local allowances.

3. Special inclusive ... acting paymaster ... respect both of p... Air Force commis...

4. Similarly, existing quartermasters, if transferred, will continue at ex rates, unless appointed to an Air Force rank.

5. Flying pay is not issuable to officers on consolidated rates, but other the regulations governing the issue of flying pay will continue subject to any ne eary modifications in details. Details will be published in Air Force regulat... due course.

6. The existing rights of Reserve officers of the Flying Services to the gratu of £150 for each year of service will continue, as also will the right of tempora officers of the Army to the gratuity based on length of service under the ... Warrant.

7. The pay of officers will be issued in arrear. In order to overcome ... convenience thus caused to ... will be auth...

... one month

... following firms have been appointed Air Force agents for the issue of pay and allowances to officers of the Air Force:—

Messrs. Cox and Co., 19, Charing Cross, London, S.W., for Staff and Flying Branch.

Messrs. Holt & Co., 3, Whitehall Place, London, S.W., for Technical and Ad ministrative Branches.

The present practice of issuing the pay of R.N.A.S. Officers through Naval Paymasters will cease. Instructions will shortly be issued for general guidance as to the opening of individual accounts with Air Force agents and as to the time and method of giving effect to the change referred to in para. 7.

9. The issue of allotments of pay by the ... transferred or attached ... their own arrangements ... of children's allowance ...

10. A certain number of R.F.C. Officers performing non-technical administrative duties were graded on appointment or promotion as E.Os or Park Commanders. Such officers will, under the new régime, be appointed Administrative Officers and be paid as such, subject to reserved rights to existing rates of pay if higher.

11. Commissioned Warrant Officers and Warrant Officers of the Navy commissioned as commissioned officers of the Air Force. The ... rates of separation allowance and in ... pay in the Air Force plus officers' children ... Naval emoluments, their case will be dea... Force emoluments are more beneficial, beneficial the officers will continue to recei... etc., which they are at present drawing. ... luments become more beneficial, e.g., on ... finally cancelled

APPENDIX IB.—PRESENT RANKS AND GRADINGS.

R.N.A.S.			R.F.C.		
Flying	Technical.	Administrative.	Flying.	Technical.	Administrative.
ing Cmdr. ing Observer.	Cmdr. R.N.V.R.	Fleet Paymaster. Naval Instr. of 15 yrs. senry. Cmdr R.N.V.R	Wing Cmdr. (Lt.-Col.)	Depot Cmdr. (Lt.-Col.).	
Sqdn. Cmdr. (Lt. or Lt.-Cmdr.) Sqdn. Observer.	Lt.-Cmdr R.N.V.R.	Staff Paymaster. Naval Instr. of 8 yrs. senry.	Sqdn Cmdr (Major).	Park. Comdr. (Major).	—
lt Cmdr. (Lieut.). t. Observer.	Lieut. R.N.V.R.	Paymaster Asst Paymaster of 4 yrs. senry. Naval Instr.	Flt Cmdr. (Captain)	E. O. (1) (Captain).	Wing Adjt. (Captain).
lt. Lieut. (Lieut.) bserver Lt. light Sub.-Lt. bserver Sub.-Lt.	W. O., 1st Class.		Flying Officer, 2-Lt or Lt Flying Officer, Observer (2-Lt. or Lt.)	E. O. 2- (Lieut.).	A. Adjts draw pay of substantive rank *plus* extra duty pay.
	W.O., 2nd Class.	—		E. O. 3 2-Lieut	
Probationary Flt Officer. Probationary Obser. Officer		—	2-Lieuts. on probation.	—	

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APPENDIX Ic—RANKS AND GRADINGS IN NEW AIR FORCE.

	Flying.		Technical		Administrative.
	Rates per day.		Rates per day.		Rates per day
	Basic.	Flying.	Basic.	Technical.	Basic.
Lieut.-Col	40s.		Class A. 40s. Class B. 35s.		24s.
Major ...	32s.		21s.	2s., 4s., 6s. or 8s.	21s. 6d.
Captain ...	Flt. Cmdr. 19s. After 1 year's service in the rank, 20s.	8s.	E.O. (1), 17s. 1s. additional for each completed year's service in the rank up to a maximum of 20s.	2s., 4s., 6s. or 8s.	15s. 6d., 1[illegible] 6d. after [illegible] years' ser[illegible] vice in the rank, sub[illegible] ject to [illegible] years' total service
Lieutenant	F.O. Pilot F.O. Observer, 12s., 1s. additional for each completed year's service in the rank up to a maximum of 16s.	8s.	E.O. (2), 12s. 1s additional for each completed year's service in the rank up to a maximum of 16s.	2s., 4s. or 6s.	11s. 6d.
2nd-Lieut	P.O. (on gradn.). 10s.	8s.	E.O. (3), 10s	2s. or 4s.	13s. 6d.
Probationers	7s. 6d.	4s.	7s. 6d.	Nil.	7s. 6d.

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APPENDIX 11A—PAY OF MEN.

1. The Rates of Pay ... nd men to ... Append- ... ranks and

2. *Rates of Flying Pay* remain as at present :—

First class	4s.
Second class	2s.
Under instruction	1s

with special rates for men employed in airships, and kite balloons, on acceptance and observation duties, etc. These special rates will be liable to certain modifications

3. *Increases for War Service*.—The increase of 1*d*. a day for each year of service, ... Air Force, as the rates ... The following classes, ... already announced for ...

(*a*) Boys at 1*s*., privates, 2nd Class, and clerks, 3rd Class,

(*b*) ... sting *Army rates of pay* ... nder Army Regulations. ... s absorbed by increases ... ming over on a higher ... Pay if these together ...

It should be noted that service in the Navy or Royal Marines does not count towards War Pay.

4 *Allotments of Pay*.—The recent concessions will apply as follows :—

(*a*) To men from the Army —as already authorised for men now serving in the Army.

(*b*) To men from the Navy—the benefit of the Army system will be given. ... pay in respect of the ... ants' allowance under ... ry measure, however, ... ged against the men's ... this will take some ... n in respect of allot- ... (*See* Appendix III, para. 9)

5. *Men on Special Rates of Pay* —Following the present practice such men are not entitled to the concessions given under paras 3 and 4 above—*e g*, men of the R.F C. in Canada drawing a special allowance while serving there.

6. ... Regulations to soldiers ... to be issuable, and ... date of joining the ... ch year of service. ... e" for purposes of this gratuity.

7. ... ted in ... carry- ... ate of ... This ... *higher* rate to which the man may be appointed on transfer, or on subsequent promotion, or otherwise.

8. *Permanent Additional Emoluments (Navy)*.—In the same way men drawing non-substantive pay, detained pay, re-engaged or extension pay and the like will be entitled to retain their naval rate, including these extras, under Naval Regulations, where the naval total is more beneficial than the Air Force pay. The additional

pay will, however, drop out and be cancelled as the men come on to more beneficial rates in the Air Force either on appointment, or on subsequent increase on promotion &c.

9. *Royal Fleet Reserve.*—The emoluments of these men will follow the rule in para. 8 above. They will draw rates of pay not less than their present pay plus [illegible] which they may reach [illegible] these men [illegible] gratuity [illegible] of Air [illegible]

10. [illegible] the case of allow- [illegible] charge of [illegible] any [illegible] led to [illegible] individuals [illegible] actually and necessarily perform the duties for which these allowances [illegible]

11. *Remittances by Postal Order (Navy).*—The facilities hitherto given for this will in future be strictly confined to purchases of postal orders on board His Majesty's ships.

TABLE OF RATES OF PAY (AND CLASSIFICATION FOR ALLOWANCES) OF WARRANT OFFICERS, N.C.O.'s AND MEN OF THE AIR FORCE.

(Referred to in para. 1 above.)

Technical.		Non-Technical.		Clerks, Storekeepers, etc.		Classification for Allowances (see App. III).
Rank.	Daily Rate of pay.	*Rank*	Daily Rate of Pay.	*Rank.*	Daily Rate of Pay.	
A.—Chief master mechanic, 9*s.* + 3*s.* ...	12*s.*	Serjeant-major, Class I ...	7*s.* 6*d.*	Master clerk	6*s.* 9*d*	15
Master mechanic, 9*s.* + 2*s* ...	11*s*	Serjeant-major, Class II ...	6*s.* 9*d*			16
B.—Chief mechanic—		Flight serjeant—		Flight clerk	5*s* 6*d.*	19
Commencing rate of pay ...	7*s.*	Commencing rate of pay ...	3*s.* 10*d.*			
After 3 years' service in the rank .	8*s*	After 3 years' service in the rank .	4*s* 1*d*			
After 6 years' service in the rank ...	9*s*	After 6 years' service in the rank ...	4*s.* 4*d.*			
C.—Sergeant mechanic—		Serjeant—		Sergeant clerk	4*s.* 9*d.*	19
Commencing rate of pay ...	6*s.*	Commencing rate of pay ...	3*s* 3*d.*			
After 3 years' service in the rank ..	6*s.* 6*d.*	After 3 years' service in the rank .	3*s.* 5*d.*			
After 6 years' service in the rank .	7*s.*	After 6 years' service in the rank .	3*s.* 7*d.*			
D.—Corporal mechanic—		Corporal—		Corporal clerk	4*s.*	
Commencing rate of pay ...	5*s.*	Commencing rate of pay ...	2*s* 4*d.*			
After 3 years' service in the rank ..	5*s.* 6*d.*	After 3 years' service in the rank ..	2*s* 6*d.*			20
After 6 years' service in the rank ...	6*s.*					

TABLE OF RATES OF PAY (AND CLASSIFICATION FOR ALLOWANCES) OF WARRANT OFFICERS, N. C. O's. AND MEN OF THE AIR FORCE—*concluded.*

Technical.		Non-Technical.		Clerks, Storekeepers, etc.		Classification for allowances (see App. III).
Rank.	Daily Rate of pay.	Rank.	Daily Rate of pay.	Rank.	Daily Rate of Pay.	
E.—Air mechanic, 1st Class—		Private, 1st Class—		Clerk, 1st Class.	3s.	
Commencing rate of pay	4s.	Commencing rate of pay	1s. 8d.			
After 3 years' service in the rank ...	4s. 6d.	After 3 years' service as a private over 18 years of age.	2s. 0d.			
After 6 years' service in the rank ...	5s.			Clerk, 2nd Class.	2s.	20
Air mechanic, 2nd Class—		Private, 2nd Class—				
Commencing rate of pay	3s.	Commencing rate of pay	1s. 6d.			
After 3 years' service	3s. 6d.					
Air mechanic, 3rd class—				Clerk, 3rd Class.	1s. 8d.	
Commencing rate of pay	2s.					
F.—Boy— Commencing rate of pay	1s.	Boy— Commencing rate of pay	1s.	Boy clerk ...	1s.	20

Note.—"Service in the rank" includes service in the corresponding rank in the Navy and Army in the case of men now to be transferred or attached.

If the existing rate of pay of any man is higher than the rate which he would draw under the above table he continues to draw that higher rate until it is absorbed by increased pay on promotion or otherwise, unless disrated for other reasons.

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APPENDIX IIB—RE-MUSTERING OF R. N. A. S.

Personnel of Royal Naval Air Service, rated as—	Will be re-mustered in the Air Force as — Technical	Non-Technical.	Clerks and Storemen.
Chief petty officer, 1st Grade—			
All except (G) ratings	Chief master mechanic.		
(G) ratings	—	Serjeant-major, Class I.	
Chief petty officer, 2nd Grade—			
All except (G), writer and stores ratings	Master mechanic.		
(G) ratings ...	—	Serjeant-major, Class II	
Writers and stores	—	—	Master clerk.
Chief petty officer, 3rd Grade—			
All except (G), writer and stores ratings	Chief mechanic.		
(G) ratings	—	Flight serjeant.	
Writers and stores	—	—	Flight clerk.
Petty officer—			
All except (G), writer and stores ratings	Serjeant mechanic		
(G) ratings	—	Serjeant.	
Writers and stores	—	—	Serjeant clerk.
Leading rating—			
All except (G), writer and stores ratings	Corporal mechanic.		
(G) ratings	—	Corporal	
Writers and stores	—	—	Corporal clerk.
Air mechanic, 1st Class—			
All except (G), writer and stores ratings.	Air mechanic, 1st Class.		
(G) ratings	—	Private, 1st Class.	
Writers and stores	—	—	Clerk, 1st Class.
Acting air mechanic, 1st class—			
All except (G), writer and stores ratings.	Air mechanic, 2nd Class.		
(G) ratings ...	—	Private, 1st Class.	
Writers and stores	—	—	Clerk, 1st Class
Air mechanic, 2nd Class—			
All except (G), writer and stores ratings.	Air mechanic, 3rd Class		
(G) ratings ..	—	Private, 2nd Class ...	Clerk, 2nd Class.
Chief petty officer—Aircraftman.	—	Flight serjeant ...	Flight clerk.
Petty officer—Aircraftman.	—	Serjeant ..	Serjeant clerk.
Leading aircraftman...	—	Corporal... ...	Corporal clerk.

APPENDIX IIB—*continued.*

Personnel of Royal Naval Air Service, rated as—	Will be re-mustered in the Air Force as— Technical.	Non-Technical.	Clerical Stores
Aircraftman, 1st Grade	—	Private, 1st Class ...	Clerk, 1st Class
" 2nd Grade	—	Private, 2nd Class ...	Clerk, 2nd Class
Officers' stewards and cooks, 1st Class.	—	Corporal.	
Officers' stewards and cooks, 2nd Class.	—	Private, 1st Class.	
Officers' stewards and cooks, 3rd class.	—	Private, 2nd Class	
Boy	Boy.	Boy.	Boy clerk
Mechanic branch—			
Gunlayer	—	Aerial gunner.	
Wireless telegraph	Wireless operator.		
Engineer—			
Fitter ...	Fitter: Aero engine, General. Mechanical transport. Jig and tool maker.		
Turner	Turner		
Sheet metal worker	Tinsmith and sheet metal worker		
Welder	Acetylene welder.		
Coppersmith ...	Coppersmith.		
Blacksmith ...	Blacksmith.		
Instrument maker .	Instrument repairer.		
Tool maker ...	Fitter—jig and tool maker.		
Electrical—			
Wireman ...	Electrician		
Instrument maker and repairer.	Instrument repairer		
Power house mechanic.	Electrician.		
Driver—			
S. D.			
Petrol driver	Driver—Petrol.	Motor cyclist	
Steam wagon driver	Driver—Steam.		
Armourer	Armourer.		
Carpenter	Carpenter.		
Rigger (heavier than air)	Rigger (aeroplane).		
Rigger (lighter than air)	Rigger (airship).		
Stores ...	—	—	Storeman

APPENDIX IIb—*concluded.*

Personnel of Royal Naval Air Service, rated as —	Will be re-mustered in the Air Force as:— Technical.	Non-Technical.	Clerks and Storemen.
Writer	—	—	Clerk: General, Pay, Shorthand-typist, Stores.
Photographer .	Photographer.		
Draughtsman	Draughtsman.		
Fabric worker	—	Fabric worker.	
Motor boats—			
Engineers	Driver—Motor boat.		
Coxswains ..	Motor boat coxswains		
Hydrogen worker—			
Water gas, silicon	Hydrogen worker.		
General .	—	Labourer, &c., according to employment.	
Meteorological	—	—	Clerk—General.
Aircraft Branch—			
Aircraftman ...	—	Labourer, &c., according to employment.	
„ writer ...	—	—	Clerk: General, Pay, Shorthand-typist, Stores.
„ victualling	—	—	Storeman.
„ gunlayer...	—	Aerial gunner.	
„ stores	—	—	Storeman.
„ motor boat	—	Labourer.	
Officers' stewards and cooks—			
Officers' steward ...	—	Batman	
„ cook ..	—	Cook.	

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APPENDIX IIc—*continued.*

Men in the Royal Flying Corps mustered as—	Will be re-mustered in the Air Force as—		
	Technical	Non-Technical.	Clerks and Storemen.
Fitter—	Fitter—		
Engine erector, M T.	Mechanical transport		
Engine ..	Aero engine		
General...	General.		
Motor cycle	Mechanical transport.		
M.T.	Mechanical transport		
Machinist	Machinist.		
Millwright	Millwright		
Moulder	Moulder.		
Turner	Turner.		
Gunnery—			
Aerial gunner	—	Aerial gunner.	
Armourer	Armourer.		
Assistant armourer	—	Assistant armourer.	
Instrument repairer	Instrument repairer.		
Watchmaker	Instrument repairer.		
Miscellaneous—			
Disciplinary	—	Disciplinarian.	
Labour	—	Labourer.	
Shoemaker	—	Shoemaker	
Tailor	—	Tailor	
Others (*a*)	Miscellaneous ...		
Painter ..	Painter ..	Painter's mate.	
Photographer	Photographer		
Camera repairer	Camera repairer.		
Rigger	Rigger (aeroplane) or Rigger (airship).		
Sailmaker	—	Fabric worker.	
Upholsterer	Upholsterer.		
Storeman *	—	—	Storeman
Telephonist	K.B telephonist	Telephone operator.	
Tinsmith sheet metal worker.	Tinsmith and sheet metal worker.		
Vulcaniser	Vulcaniser.		
Wireless operator	Wireless operator.		
Wireless mechanic ...	Wireless mechanic		
K.B S balloon party	—	Labourer.	
K.B.S baloon rigger	Rigger, airship		
K B S. school plant ...	Hydrogen worker.		
K.B S winch driver and fitter.	Winch driver and fitter.		
(*a*) Included here are:—			
Miscellaneous—			
Aviator	Pilot.		
Packer	Packer.	Packer's mate.	

* Storemen who are employed as labourers only will be graded as Private Class 2

APPENDIX IIc—*concluded.*

Men in the Royal Flying Crops mustered as:—	Will be re-mustered in the Air Force as—		
	Technical.	Non-Technical.	Clerks and Storemen.
Miscellaneous—*contd.*			
Various instructors	Instructor...		
	... ...		
A.I.D. examiner ...	... ...		
Civilian flying school employee.	... ...		
Compositor ...	... ...		
Printer ..	... ...		
Lithographer ...	... ...		
Men employed as:—	Will be re-mustered as—		
Jig and tool makers .	Fitter jig and tool maker.		
Propeller repairer ...	Propeller maker.		
N C O. observer ..	Observer.		
Butcher ..	—	Butcher	
Clerk (general, qualified as shorthand-typist.	—	—	Will be re-mustered— Clerk (shorthand typist).

APPENDIX IID—TRADE CLASSIFICATIONS IN AIR FORCE.

Technical	Non-Technical.	Clerks and Storemen
Chief master mechanic.	Serjeant-Major, Class I	Master clerk.
Master mechanic.	Serjeant-Major, Class II.	
Chief mechanic	Flight-serjeant	Flight clerk.
Serjeant mechanic.	Serjeant	Serjeant clerk.
Corporal Mechanics and Mechanics	**Corporals and Privates.**	**Corporal Clerks and Clerks.**
Acetylene welder	Aerial gunner.	Clerk General, Pay, Shorthand-typist, Stores.
Armourer	Assistant armourer.	Storeman.†
Blacksmith	Batman.	
Boat builder	Butcher	
Camera repairer	Cook.	
Carpenter	Coppersmith's mate.	
Coppersmith	Disciplinarian.	
Draughtsman	Fabric worker	
Driver—	Hospital orderly.	
Motor-boat	Labour.	
Petrol.	Packer's mate	
Steam.	Painter's mate.	
Electrician	Motor-cyclist.	
Fitter Aero engine, general mechanical transport jig and tool makers	Shoemaker.	
Hydrogen worker	Tailor	
Instructor (to be described).	Telephone operator.	
Instrument repairer.		
K. B. telephonist.		
Magneto repairer.		
Millwrights.		
*Miscellaneous		
Motor-body builder		
Motor-boat coxswain.		
Moulders.		
Observer		
Packer.		
Painter		
Pattern maker		
Photographer.		
Pilot.		
Propeller maker.		
Rigger (aeroplane).		
" (airship).		

* Mechanics mustered under this head, to be restricted to a minimum.

† Storehandlers (i.e., storemen employed as labourers only) will be (non-technical) privates.

APPENDIX IID.—*continued.*

Technical.	Non-Technical.	Clerks and Storemen.
Tinsmith and sheet metal worker.		
Turner.		
Upholsterer.		
Vulcanizer.		
Winch driver and fitter.		
Wireless mechanic.		
Wireless operator.		

All learners will be entered in the "Non-technical" category and be remustered to the "Technical" category when sufficiently qualified to be able to pass the prescribed examination.

APPENDIX III—ALLOWANCES.

The following examples and notes are given as typical of the ordinary Army [allow]ances for officers and men at the present time, issuable as a rule when provision cannot be made in kind. They do not profess to give more than examples, and it is impossible within the limits of this pamphlet to set forth the administrative regulations governing their issue.

A.—OFFIC[ER]S.

1. Typical ordinary rates (daily):—

	Lodging	Fuel and Light.		Field Allowance (when on field duty)*	Ration Allowance.	Forage and Stable Allowance	Servant Allowance
		Winter.	Summer				
Colonel (Class C) ..	4s. 6d.	1s. 11d.	11d.	4s. 6d.	1s. 9d.	(For each horse authorised about 2s. 6d.)	(In certain cases 1s. for each servant authorised.)
Regimental Lieut. Colonel (Class 8)	4s.	1s. 7d.	9d.	4s.	1s. 9d.		
Regimental Major (Class 10)	3s.	1s. 1d.	7d.	4s.	1s. 9d.		
Regimental Captain (Class 12)	2s. 3d.	7d.	4d.	3s.	1s. 9d.		
Regimental Lieutenant (Class 14).	2s.	7d.	4d.	2s. 6d.	1s. 9d.		

* Not issuable with lodging money in the United Kingdom.

2. The rates vary at foreign stations, and at some stations abroad Colonial allowances is also given.

3. Officers [illegible] Expeditionary Forces on land [illegible]

4. Children's allowance.—

(a) Higher rate, at £2 a month, up to a maximum of four children:—

Staff officers whose rate of pay when quarters are not allotted does not exceed £400 a year consolidated.

Officers of the Administrative Branch up to and including the rank of captain.

Officers of the Technical Branch of the rank of second-lieutenant.

(b) Lower rate, at £1 a month.

Staff officers whose rate of pay when quarters are not allotted exceeds £400 but does not exceed £500 a year consolidated.

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Officers of the Administrative Branch of the rank of major.

Officers of the Technical Branch of the rank of lieutenant or captain.

Flying officers up to rank of lieutenant.

The entitlement is more fully defined in the Army and Admiralty Orders already published (A. O. 44 of 1918; and Admiralty Order 342, R. 301-18, dated 1st March 1918)

If a first claim has already been made to the Admiralty or War Office, no other claim will require to be made to the Air Ministry. First claims should continue to be sent to these other departments up to the date referred to in para. 1 of this pamphlet, and thereafter to the Air Ministry. Formal instructions on this will be issued later.

5. Officers drawing the higher rate of children's allowance previous to transfer who come into [illegible] limit of the high [illegible] will [illegible] less [illegible]

6. In any cases in which the increase of pay (say, 2s. a day) on promotion from a rank entitling an officer to the higher children's allowance to a rank entitling him only to the lower rate, is more than offset by the reduction in the allowance (say, 2s. 8d.), the deficiency (8d.) can be issued as additional children's allowance (making in this case children's allowance of 3s. 4d. in all).

7. Instructions will shortly be issued prescribing the mode of claiming allowances and providing for the amounts due to be credited each month to the officer through his Agent.

5. Typical ordinary rates (daily):—

Rank.	Classification in Army Allowance Regulations	Lodging.*	Fuel and Light.*		Field Allowance (when on field duty).	Ration Allowance.	Married Establishment† (Peace Regulations)	Separation Allowance.
			Winter.	Summer				
							Per cent.	
Warrant officers, Cl. I ...	15	1s. 6d.	11d	6d.	1s.	1s. 9d	100	
Warrant officers, Cl. II ...	16	1s. 4d.	8d.	4d.	6d.	1s. 9d.	100	See below, para. 9.
Flight serjeants and serjeants ...	19	9d ‡	—	—	—	1s. 9d.	50	
Corporals and privates ...	20		—	—	—	1s. 9d.	4	

* Mostly in abeyance during the war, in view of billeting, &c., and *see* para. 6 below.

† Practically in abeyance during the war, as separation allowance is issuable without restriction.

‡ To include fuel and light.

6. The above rates of lodging, fuel and light allowances are for single men or for married men separated from their families. When married men are living with their families, a consolidated family allowance based on separation allowance is issuable.

7. Clothing: a free initial kit, with subsequent necessary maintenance is given during the war. A money allowance is given in peace for renewals and upkeep. The system of quarterly kit upkeep allowance in the R.N.A.S. will cease.

8. Field Allowance: the field allowance hitherto issued to Naval personnel will cease, and will be replaced by the field allowance in para. 5 above in so far as this is issuable: the issue in para. 5 is confined to Warrant Officers.

9. *Separation Allowance.*—(1) *Wives and Children.*—The Army rates (Weekly) for a wife and children are as follows:—

	Wife only.	Wife and 1 child.	Wife and 2 children	Wife and 3 children
Private and corporal ...	12s. 6d.	19s. 6d.	21s. 6d.	23s.
Serjeant (including flight serjeant)	15s.	22s.	27s.	31s. 6d.
Warrant officer, Class II ...	22s.	27s.	30s. 6d.	32s. 6d.
Warrant officer, Class I ...	23s.	28s.	31s. 6d.	33s. 6d.

	Wife and 4 children.	Wife and 5 children.	Wife and 6 children	Wife and 7 children	
Private and corporal	31s.	34s.	37s.	40s.	With 3s. for each additional child under 14 year
Serjeant (including flight serjeant)	33s. 6d.	36s. 6d.	40s. 6d.	42s. 6d.	
Warrant officer, Class II.	34s. 6d.	36s. 6d.	39s. 6d.	42s. 6d.	
Warrant officer, Class I	35s. 6d.	37s. 6d.	39s. 6d.	42s. 6d.	

Note.—These rates include the amounts, 3s. 6d. and 5s. 10d. according to rank formerly allotted by the man from his pay (Army).

Under certain conditions the above rates are increased by 3s. 6d. a week in the case of wives resident in the London postal area.

The above rates are in respect of children under 14.

The rates for children over 14 are [illegible].

[illegible]

charged against the man's account, but whose dependence allowance under Army rules turns out to be only 1 s. 6d., i.e., the amount of the pre-war dependency. In that case 16s will continue to be issued; 10s. 6d. will continue to be borne by public funds as hitherto, and 5s. 6d. will be charged against the man's account.

Thus in many cases there will be a clear gain to the man or to his family or dependants, and in no case will the amount paid from public funds by the [illegible] Ministry be less than the amount which they are now entitled to be paid from public funds by the Admiralty or War Office.

[illegible]

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 513 of 1918.

SIMLA,

28th May 1918.

Payment of octroi duty on State property which is sold after importation into cantonments.

It has been decided that, in the case of any State property nported into a cantonment free of octroi duty under the provisions f Army Department Notification No. 981, dated the 10th May 918, and subsequently sold, the officer responsible for its import hall furnish to the Cantonment Authority, on the first day of the ionth following the sale, a certificate of the goods so sold, and hall arrange for the simultaneous payment of the amount of octroi uty payable thereon.

[30927 (Q. M. G.) / C.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 514 of 1918.

SIMLA,

28th May 19

514. Grant of conveyance allowance by road recruits for all branches of the Indian Arm (both combatant and non-combatant) and their conducting parties.

Sanction is accorded to the grant, for the period of the war, free conveyance by road by the cheapest means of conveyance locally procurable, to recruits and their conducting parties under the following conditions :—

(*a*) When proceeding from their homes to the nearest place of examination.

(*b*) After acceptance, when proceeding to the nearest railway station *en route* to join a unit

2. The grant of free conveyance will be admissible *only when* the journey exceeds 10 miles and cannot be performed by rail.

3 Recruiting Officers are authorised to assess and pay the cost of conveyance. They will furnish a certificate monthly to the effect that the amounts so paid were at the rate prevailing for the cheapest means of conveyance locally procurable, and this certificate will be accepted in audit

4 The expenditure involved is debitable to His Majesty's Government and should be adjusted through the Central War Controller

[10339 (A. G.) / E.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 515 of 1918.

SIMLA,

28th May 1918.

515. Alteration of designation of Ordnance Officers in charge of arsenals.

It has been decided that the senior officer of the Indian Ordnance Department at an arsenal, who is at present designated "the Ordnance Officer in Charge" under paragraph 2 of Army Department letter* No. 8161-1 (O-3), dated the 24th October 1917, shall, in future, be styled the Chief Ordnance Officer (C. O. O.) of that arsenal. He will be responsible for the administration of Ordnance Services within the area supplied by the arsenal, and for the organisation and supervision of the arsenal itself and of the Ordnance and Clothing depôts within the area.

* Communicated to General Officers Commanding Divisions and Independent Brigades and Controllers of Military Accounts.

The second senior officer at an arsenal and the senior officer at a depôt will be styled the Ordnance Officer (O. O.) of the arsenal or depôt. The Ordnance Officer will be in executive charge of the arsenal or depôt, and will be responsible to the Chief Ordnance Officer for the proper performance of all duties carried out therein.

[2620 (Q. M. G.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 516 of 1918.

SIMLA,

28th May 1918

516. Grant of a bonus of Rs. 50 to all pensioners re-employed in any military capacity.

It has been decided that all approved Indian military pensioners—other than Indian officers—re-employed on or after the 1st May 1918 in any military capacity, whether for service overseas or in India in connection with the war, shall receive a bonus of Rs 50 on re-enlistment. The bonus will be paid as follows :—

(i) Rs. 10 on re-enrolment.

(ii) Rs. 40 after the completion of 3 months approved service. This amount will, however, be forfeited if the man is discharged within the above period.

2. In the case of a man proceeding over-seas within the period of 3 months from the date of enrolment, the sum of Rs 40 will be paid to him prior to his despatch.

3. The expenditure involved is debitable to His Majesty's Government.

[52470 (A. G.) / E.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 517 of 1918.

SIMLA,

28th May 1918.

517. Revised War Establishments of Supply and Transport Corps Supply Units

[illegible] (India) No. 394 [illegible] of Supply and [illegible]

(i) Page 2 of appendix.

A Divisional Headquarters Supply and Transport Corps.

Delete " Attached Transport " and connected entries.

(ii) Page 4 of appendix.

A Divisional Supply Column.

Delete note (c) in the remarks column. Under heading "Sarwans" in the column of " Attached Transport," *change* " (c) 16 " to " 15 ".

[1064 (Q. M. G.) / D.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT.

ARMY INSTRUCTION (INDIA)

No. 518 of 1918.

SIMLA,

28th May 1918.

518. Gratuity admissible under paragraph 166, Army Regulations, India, Volume I, to the estate of an officer who dies from wounds received while holding acting rank.

An officer holding acting rank who is wounded relinquishes such rank, under rule, from the day following that on which he received his wound. It has been decided, in the case of an officer who subsequently dies as the result of such a wound, that the gratuity payable to his estate in accordance with paragraph 166, Army Regulations, India, Volume I, will be at the rate admissible for the acting rank held by him when wounded.

[03941 (A. G.-C) / R.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 519 of 1918.

SIMLA,

28th May 1918.

519. Pay and allowances for officers and men coming from Mesopotamia to India on leave.

It has been decided that, in addition to the concessions mentioned in clause (*c*) of Army Instruction (India) No. 391 of 1918, the following allowances will be admissible to departmental officers with honorary rank, and warrant and non-commissioned officers of the Supply and Transport Corps, who are granted leave to India from Mesopotamia, provided that they were in receipt of the allowances in Mesopotamia :—

(*a*) Charge allowance, under paragraph 457A., Army Regulations, India, Volume I (or under paragraph 457 *ibid* in the case of those serving with organised transport units).

(*b*) Command allowance to non-commissioned officers under paragraph 456 (*a*), Army Regulations, India, Volume I.

2. This decision has retrospective effect from the 20th September 1916.

[1985 (A. G.) / B.]

A. H. BINGLEY, *Major-General,*

Secretary to the Government of India.

GOVERNMENT OF INDIA

ARMY DEPARTMENT

ARMY INSTRUCTION (INDIA)

No. 520 of 1918.

SIMLA,

28th May 1918.

520. Continuance of separation allowance and allotment to families of soldiers discharged from the service or transferred to the reserve in the United Kingdom.

With reference to Army Instruction (India) No. 253 of 1918, it is notified that the authorised allotment as well as separation allowance should be continued to the family of a British soldier detained in India owing to the restriction of passages in cases where the soldier is discharged from the service or transferred to the reserve in the United Kingdom.

[54190 (A. G.-8.) / R.]

A. H. BINGLEY, *Major-General,*
Secretary to the Government of India.

Treasure Trove—(concld.)

TREASURE TROVE *See* Criminal misappropriation—22.

TREATM NT. *See* Medical treatment

TRESPASS. *See* Criminal trespass.

TRESPASS ON BURIAL PLACES S 297, I. P. C.

1. Civil Trespass.

Civil Trespass is a mere encroachment or an authorised entry without Criminal intent specified in S. 441. 18 A. 395, 40 C. 548, 23 P. R. 1915 Cr, 1 R. 690.

2. Demolition of graves

If a person is given Khas possession by a Civil Court, he cannot disturb or demolish graves and thereby wound the feeling of others. If he does so, he is guilty. 36 C W. N. 544.

3 Disturbance of funeral ceremonies

1. Where certain persons prevented the grave diggers from digging a grave for the corpse of complainant's son as he did not join Khilafat party, they are not guilty. 1922 A. 184=65 I. C. 424=23 Cr L. J 72
2. Accused came and asked the complainant not to cremate the body of his daughter and on being asked said that they would state the reason to the Police Held, that these words only do not amount to disturbance within S 297. 2 P R. 1919 Cr.
3. Disturbance of the obsequial rites falls within S 297. 6 M. 254 (257).
4. Funeral ceremony does not mean symbolical religious ceremony, such as Muharram Procession the stoppage of which is not punishable under S 297. 1885 A. W. N. 49

4 Essentials and Evidence

1. Accused entered a mosque for prayers and after an altercation abused the congregation Held, he is not guilty under S 297 but under S 504. 1924 R 106=1 R. 690=81 I C 41=25 Cr L J 553
2. Magistrate inspected the alleged burial place He unearthed two small boxes and finding some matting and piece of bamboos came to the conclusion that it was a burial place Held, that his proceedings were entirely irregular 1923 P 537=81 I. C 602=25 Cr L J 954
3. Accused entered the enclosure surrounding the tomb of a Mohammadan Faqir at night with a woman to have sexual intercourse He is guilty under S 297. 10 M. 126, 45 A 529
4. A joint owner who dug up graves and exposed bones of the persons buried, inspite of the remonstrances of their relations, is guilty under S. 297 33 A 773, 18 A 395
5. It is sufficient to prove that the trespass occurred on any place of sepulchre 2 I C. 825=10 Cr. L. J 160
6. It is not necessary for the purpose of S 297, that a burial ground should be in use 40 C 548
7. A person who destroys or disturbs a place of sepulchre with the intention of wounding the religious feelings of any person amounts to trespass within S 297, no matter whether land belonged to him or not 23 P R 1915 Cr, 18 A. 395, 33 A. 773, 40 C 548
8. A place where only isolated and secret cases of burial have taken place in the course of many years, is not sepulchre 2 I C 825=10 Cr. L J. 160
9. A was found in a mosque having sexual intercourse with a woman B. Held, both were guilty under S 297 45 A 529=1924 A 9=24 Cr. L. J. 711=73 I C. 935.

5. Trespass

1. Trespass in S 297 means any violent or injurious act and is not restricted to sa[illegible] meaning as 'Criminal trespass in S 441, I. P. C. 40 C. 548, 1924 R. 106=1 R. 690=81 I. C 41, 45 A. 529=73 I. C. 935.

Trespass on Burial Places—(concld.)

2. Trespass in S. 297, Penal Code, must be construed in its natural sense, *viz*, unauthorized entry upon the property of another. 23 P. R. 1915 Cr., 56 I. C. 235.

3. Accused enclosed and commenced to cultivate a portion of burial place Held, he was guilty of trespass 6 M. H. C R. 425.

TRIAL.

1. Definition of—.

1. Trial is to find out by due examination the truth of point in issue or question between the parties, whereupon judgment may be given. *Wharton's Law Lexicon 1246.* 1936 C. 356 (363)=163 I. C. 9.

2. Statement of Judge as to what happened at the trial is conclusive and no affidavit of bystanders or Jurors, nor the notes of counsel or shorthand writers are admissible to controvet the statement of Judge. 10 B. H. C. R. (Cr. C.) 75.

2. When begins.

1. The words of S. 271, Cr. P. C., indicate that trial commences when charge is read out to the accused and he is asked to plead. 1936 M. 353=37 Cr. L. J. 637. 28 C. 211 Foll. 1931 C. 341 Diss.

2. The trial of summons case commences when the Magistrate takes cognizance under S. 190, Cr. P. C. 1935 C. 491=157 I. C. 670=36 Cr. L. J. 1238, 1933 C. 354=37 C. W. N. 312=60 C. 643, 53 B. 693, 1929 C. 189 Foll. 40 M. 977 Not foll. 25 C. 863 Ref.

3. It cannot be said that the trial of a summons case cannot be said to begin until the particulars of the offence are stated to the accused. 1935 C. 491=36 Cr. L J 1238=157 I. C. 670. 40 M. 977 Not foll.

4. It is not necessary that accused should appear in Court in order that "trial" may be said to begin under S. 247, Cr. P. C. If the complainant is absent the accused will be acquitted. 1929 B. 408=53 B. 693=126 I. C. 321, 1935 C. 491=36 Cr. L. J. 1238.

5. The word 'tried' use in S. 403, Cr. P. C., does not necessarily import a decision of case on merits, but only refers to the nature of proceedings that were had, or in other words the means that the proceedings in which the acquittal was passed, were in the nature of trial. 1929 C. 189=116 I. C. 174=30 Cr. L. J. 585, 1935 C. 491

TRIAL IN JAIL.

Trial in jail is not illegal, when there is nothing to show that admittance was refused to any one who desired it or that the prisoners were unable to communicate with their friends or Counsel. It is undersirable to hold trials in jail, because it is difficult to get Counsels to appear in jail. 21 P. W. R. 1917 Cr.

TTRUSEE.

1. Breach of trust by—. *See* Breach of trust—29.

2. Misappropriation by—. *See* Criminal misappropriation—9.

TRUTH—AS DEFENCE. *See* Defamation—44.

TURBAN.

1. Deterioration of turban by use, is not a loss of property to the owner, and therefore does not constitute an offence under S. 406, I. P. C. 10 Bur. L. R. 249.

2. Accused in a fit of temper, hit an old man on his turbaned head with a stick and fractured his brittle skull. He had no intention to cause more than a hurt. Held, he was guilty under S. 323, I. P. C., although death was caused. 1931 M. W. N. 1152.

TUTORED WITNESS. *See* Witness—101.

Accused complained to the Magistrate, that Police were tutoring certain witnesses and to take action. Held, it is not a charge within the meaning of S. 211, I. P. C. 26 M. 640, 75 I. C. 138.

TYPE WRITTEN DOCUMENT. *See* Expert—14.

TYPOGRAPHICAL MISTAKE. *See* Interpretation of Statute—24.

U

UNARMED MAN—ATTACK ON— *See* Murder—11

UNAUTHORIZED CONSENT *See* Consent—18

UNAUTHORIZED ENTRY *See* Criminal trespass—29

UNAUTHORIZED SIGNATURE *See* Forgery—28

UNCONTRADICTED EVIDENCE *See* Evidence—40

UNDEFENDED ACCUSED

1 **Arguments for—** *See* Arguments—9

2 **Court to cross Examine witness for—** *See* Cross examination—7

3 **Examination of—** *See* Examination of accused—28

4 **To put up defensive pleas for—** *See* Court s duty—34

5 **Withdrawing plea of guilty by—** *See* Plea of guilty—8

UNDER COLOUR OF OFFICE *See* Right of private defence—21

UNDERTAKING GIVEN TO COURT

1 A person is not entitled to give an undertaking to a Criminal Court to abstain from certain action and then file a civil suit for declaration that that undertaking was of no effect 1925 A 605=85 I C 586

2 In appropriate cases Court may allow proof of fact subje t to assurance of the party that proof of the latter fact will be forthcoming If such evidence is not given such evidence will be expunged *S 136 Ev Act Norton 319 Law of Evidence by Monir, 1936 Ed P 955*

UNDER TRIAL PRISONER *See* Interview

When a prisoner complains to Court that he is not treated in accordance with jail rules the Court has jurisdiction to hold inquiry into the complaint and pass necessary orders 1931 L 562=133 I C 59=32 Cr L J 988

UNDUE ADVANTAGE *See* Murder—82

UNDUE PRAISE OF GOODS *See* Cheating—27

UNLAWFUL ASSEMBLY Ss 145—149 I P C *See* Rioting

1 **Act done is prosecution of common object** S 149 I P C

1 When the common object was not to cause death but grievous hurt accused were guilty under S 325—149 1923 L 43=81 I C 179

2 If the principal offender is guilty under S 302 the other members cannot be found guilty under S 304 read with S 149 If a person is to be found constructively guilty, it must be for the same offence of which the principal offender is guilty 5 P 238 1923 P 50=24 Cr L J 65 *Contra* 1927 S 108=99 I C 93

3 In the case of riot resulting in simple hurts or grievous hurt all are liable under S 149, for the results 17 B 260 25 Cr L J 1305 1933 M 842

4 All the accused cannot be convicted under Ss 304—149 and Ss 325—149 as the major offence included the minor 1925 L 539=91 I C 804

5 Where a prisoner is constructively guilty of murder under S 34, it is doubtful if he can be said to have committed murder under S 149 so as to make the prisoner by double construction guilty of murder 8 C 739

6 When some dacoits are armed with deadly weapons or a murder is committed all are liable for murder under S 149 16 P R 1915 Cr 3 L L J 245

7 The word ' knew indicates a state of mind at the time of commission of offence and not the knowledge acquired in the light of subsequent events 6 S L R 101

8 The word knew' is advisedly used and cannot be made to bear the sense of might have known 27 Cr L J 547=1926 L 419=93 I C 1043

9 Existence of common object before the commencement of fight is not necessary It is not enough if it is adopted by all the accused 35 M 243 (248)

Unlawful Assembly—(contd)

10 The expression common object refers to five ob ects mentioned in S 141 and is not used in the same sen e as in S 34, which means the intention of all whatever it may have been 30 Cr L J 205, 76 I C 705

11 When it is not proved that five persons took part in a murder, S 149 does not apply 85 I C 371

12 If some accused are carrying deadly weapons to the knowledge of the rest all are guilty under S 149 1929 M W N 888, 101 I C 485

13 Where the actions of the mob were united, concerted and continuous, all would be guilty for whatever criminal offences were committed in furtherance of common object 1923 M 369=73 I C 147

14 When a number of persons set out to abduct a woman and two of them are armed with pistols, knowledge that death is likely to result can be presumed 86 I C 347

15 S 149 creates no substantive offence It is merely declaratory of the law and makes a person liable for the acts of another *1926 A 225=92 I C 463*

16 If persons decide upon their common object, the preparation towards that common object is prosecution or following up and if preparation is an offence, all are guilty 1930 M 857=127 I C 654=32 Cr L J 30

17 If accused who was a brother of the principal offender and sympathizer of the attacking party, was present at the occurrence and was actually kicking the principal offender saying let him off he will die Held he was not guilty under S 149 48 A 375

18 Conviction under Ss 129, 128, Railway Act, by operation of S 149 is illegal 52 M 882, 76 I C 644

19 Omission of S 147 from a charge does not create illegality 47 M 746

20 If murder is committed in furtherance of common object, all are guilty even though it is not proved as to who gave the fatal blow 95 I C 766, 1929 M W N 869

21 The definition of "offences in S 149 does not include offences under Special Act 72 I C 360, 52 M 882

22 One member of the unlawful assembly was a Sikh wearing Kirpan who unsheathed it and gave a fatal blow to the victim Held, that other members were not constructively liable for causing death. 1930 L 532=122 I C 721

23. Where one of the accused who belonged to the gang of dacoits was arrested and the other dacoit fired at a pursuer, the arrested accused is not guilty of murder 31 I C 345

24 If accused are convicted under Ss 325—149 and one man is murdered, the accused who joined in the actual attack on the deceased should be given severe punishment 134 I C 1041

25 If the accused knew that murder was likely to result, all the members of an unlawful assembly are guilty of murder 1932 L 36/=137 I C 196

26 Ordinarily S 149 is inapplicable to an offence under S 396 but if unlawful assembly existed before murder with dacoity is committed, S 149 applies 1935 O 190=153 I C 978

27 Offence committed must be immediately connected with common object of assembly 1935 O 52=153 I C 96=36 Cr L J 268

28 If the common object of the assembly is to give beating and one member thrusts spear, other members who are armed with *lathi* and spears are not guilty of murder 1935 O 52=153 I C 96=36 Cr L J 268, 20 W R 5 Cr and 6 A 121 ref

29 When a person is charged with being a member of an unlawful assembly, one of the members of which caused grievous hurt in pursuance of the common object he can be convicted of substantive offence 1935 S 34=154 I C 915=36 Cr L J 598 47 M 746=1925 M 1=25 Cr L J 1297 Rel on

30. Seven accused caused the death by fracturing ribs, rupturing spleen and inflicting injuries on head *Held* they were guilty under Ss *304—149 1935 O* 381=154 I C 808=36 Cr L, J 573 (*Case law discussed*)

Unlawful Assembly—(contd.)

31. Several persons attacked a man with *lathis* and caused his death. All are guilty under S. 149 and other sections. It is immaterial as to with whose *lathi* the death was caused. 1935 A. 930, 40 A. 686, 1933 A. 528 Ref.

2. Assembly.

1. When two or more mobs start from different localities or never mingle together at any time or place, the mere fact that they have common object will not make them one assembly. 100 I. C 817=1927 O. 151=28 Cr. L. J. 337.

2. Mere assemblage of five men does not render their meeting unlawful, unless it was in pursuance of a common unlawful object 16 C L J. 440, 4 I. C. 1142.

3. Charge.

1. The charge should specify the unlawful common object of the assembly. 11 C. 106, 22 C. 276, 26 C. 633, 1921 C. 605=77 I. C 988.

2. Omission of the common object is not fatal to conviction if evidence is sufficient to support it. 39 C. 781, 5 I C 771=11 C. L. J. 270

3 The charge of unlawful assembly with the common object of harassing Hindus is not too general and unjust to accused The accused should have reasonably distinct notice of the common object imputed to them. 1924 M. 376.

4 The failure to define accurately the common object in the charge is an irregularity curable under S 537. 1930 M. 188, 36 C. 865, 37 C. 340, 33 C. 295.

5. When a Court draws up a charge under S 325 read with S. 149, I. P. C., it clearly intimates to the accused that they did not cause grievous hurt to any body themselves, but that they are guilty by implication of such offence as some body else in prosecution of common object caused grievous hurt. 15 I C. 646=13 Cr. L. J 502, 1935 S. 34=154 I. C. 915=36 Cr. L. J. 598

6 When persons are acquitted of rioting, all the offences which they are said to have committed by implication, disappear 15 I. C 646=13 Cr. L J. 502, 6 C. W. N. 98

4. Common object.

1. The object need not be present in the minds of all before they meet, for it may occur to them afterwards 34 P. R. 1868, 1 Weir 18

2. Members of an assembly may have a community of object only up to a certain point beyond which they may differ in their objects and each member would be liable to the extent to which he shares the community of object 22 C 30

3. Assembly may be perfectly lawful in its inception but it may become suddenly unlawful without previous concert among its members 6 C. W N. 507, 2 Bom. L. R. 1129

4. When the common object is to cause a particular kind of hurt, it is necessary to come to definite finding in terms of common object. 1929 P. 206=116 I. C. 523=30 Cr. L. J. 634.

5. There can be no common object on the part of two opposite factions fighting with each other 13 P. R. 1870 Cr, 12 W R. 75

6. Common object cannot be varied in appeal, for the trial proceeds upon proof of the common object which is specified and not upon any common object which the facts of the case may disclose 5 C. W N 31

7. In order to establish common intention of an unlawful assembly it is not necessary to prove that its members actually met and conspired, but it can be inferred from the circumstances 1927 L 193=28 Cr. L J. 264, 10 I. C. 234.

8 There is a liability of each of several accused persons for act done by all in furtherance of common intention of all. 2 P R. 1887 Cr., 61 P R. 1887 Cr.

9. In case of unexpected attack by one of the accused, others are responsible. 55 P. L. R 1911.

10 Use of slightest force by any one of the members of assembly makes it unlawful 34 P R 1868 Cr, 5 P. R. 1877 Cr, 4 P. R. 1889 Cr.

11. The common object of the crowd which dispersed without taking action can be

Unlawful Assembly—(contd)

inferred from the attitude and demeanour of the crowd 1928 P 98=105 I C 234=28 Cr L J 906

5 Essentials and Evidence

1 If five persons assemble for the purpose of gambling it is not an unlawful assembly because gambling though illegal is not one of the illegal objects enumerated in the section 1 Weir 53

2 If large number of men are armed with sticks and bill hooks it cannot be presumed that their object was illegal 29 C 244, 54 C 476 1925 N 260 24 M 124

3 It is not unlawful to carry sticks and if it provokes an assault the assailants are guilty and not those who use sticks in self defence 31 I C 343 75 I C 176

4 An assembly which is not unlawful in its inception does not become unlawful because it refused to disperse in defiance of a lawful order to disperse 1922 L 135 =64 I C 373=23 Cr L J 5

5 Common object to compel the complainant by means of force to omit to do a certain act for the time being is insufficient 1925 O 425=85 I C 353

6 If the common object of the assembly is an offence under S 188 it falls under S 141 (3) 1929 B 433=31 Bom L R 1151 1923 P 1

7 Immediate purpose to carry out common object must exist A meeting for deliberations for future individual action is not an unlawful assembly 1925 R 362

8 Collecting people and resisting trespass which was long expected do not constitute an unlawful assembl 1923 O 167 83 I C 523 24 C 686 1922 O 228

9 A toddy shop was pulled down and there was no force used to any other person Held that though accused were not the actual persons responsible for the violence used yet they are members of an unlawful assembly 1923 M 606=76 I C 235=25 Cr L J 139

10 The essence of offence under S 143 is the combination of several persons for the purpose of committing an offence and that purpose constitutes in itself an offence distinct from the criminal force which these persons agree and intend to commit 46 M 257=1923 M 592=71 I C 242=24 Cr L J 114

11 Where accused assembled with the common object of shooting the deceased and some came with guns Held all are guilty under S 144 read with S 149 1930 M W N 377

12 When a person is charged with being a member of unlawful assembly, one of the members of which caused grievous hurt in pursuance of the common object there is no necessary implication that the particular member is not himself 1935 S 34=154 I C 915=36 Cr L J 598 1925 M 1=47 M 746=25 Cr L J 1297 Rel on (*Case law discussed*)

13 Members of an unlawful assembly uttered words expressing their determination to force their way through the Police cordon the words were admissible as part of the transaction of the unlawful assembly 1925 R 354=26 Cr L J 1622=90 I C 918=3 R 352

14 Existence of unlawful assembly and accused was member of such assembly have to be proved Part taken by each accused need not be proved 1933 A 535

15 If a person is present in crowd the burden of proving innocent intention is on him 55 A 689=1933 A 535

6 Exercise enforcement or defence of rights

1 When accused being molested while watering their field in the exercise of their lawful rights resorted to force they are not liable 1925 O 425=85 I C 353=26 Cr L J 513 1923 A 194

2 Hindus and Mohammadans agreed not to kill cow and pig in the village After a year Hindus suspecting that Mohammadans were going to slaughter a cow assembled with *lathies* Held that their object must be deemed to be to enforce a right with a show of force and were rightly charged with it 1928 P 562=109 I C 503 29 Cr L J 567

3 Persons entering land by means of criminal force are members of unlawful assembly 6 P 794=1928 P 124=106 I C 691

Unlawful Assembly—(contd)

4 If the order of Court to cut a *bund* is vague, assembly engaged in resisting the *cutting is not unlawful* 1924 C 996=84 I C 343=26 Cr L J 279

5 Collecting people and resisting trespass which was long expected do not constitute an unlawful assembly 1923 O 167, 81 I C 67, 83 I C 523 24 C 686, 1922 O 228, 15 A L J 47

6 If accused party having title to the disputed property takes possession by force from the *complainant unlawful assembly is formed* 1924 P 143=74 I C 73

7 The true import of the expression 'to enforce any right relates to an initial act when it is done in furtherance of any right and not to an act when it is done to maintain a position already achieved in the lawful exercise of that right 1925 O 425=85 I C 353=26 Cr L J 513

8 In a charge of rioting with common object to enforce a right or a supposed right, it is necessary for the prosecution to show that the accused was not in actual possession at the time of occurrence 1926 C 439=85 I C 711=26 Cr L J 567

9 To enforce a right applies when the party claiming the right has not possession over the subject of right A party *in possession is entitled to resist and repel aggression* to 'maintain a right 1925 L 49=81 I C 113=25 Cr L J 625

10 If accused form an assembly for defending a right to a supply of water which they are possessed of, they are not liable 51 M 91, 1925 L 49, 36 C 865 21 C 392, 24 C 686 26 P R 1914 17 C W N 1132, *Contra* 16 C 206

11 Where water draining from the complainant s mill is polluting the water supply, rendering it unfit for drinking or crops and accused taking steps to prevent the con tamination act under a colour of right do not constitute unlawful assembly. 1929 M 833=121 I C 159=31 Cr L J 225

12 Use of force to vindicate one s right or *possession of property is justified* 3 C 573, 24 C 686, 32 I C 137, 14 B 441, 37 I C 318 40 I C 311, 1922 O 228 *Contra 35 C 103 35 C 384, 36 C 296 16 C 206 (219) 26 C 574*

13 Use of force is justified in maintaining a right or possession though not for enforc ing a right or obtaining or even regaining possession *21 C 392, 36 C 865,* 17 C W N 1132 26 P R 1914, 35 I C 823 15 A L J 47

14 A may be in peaceful possession of land of which the title is in B A may resist B s forcible entry 66 I C 817, 1922 P 197

15 A s peaceful but wrongful possession may be of a short duration, in which case B *may use force to eject A* 23 I C 184 17 C W N 1132 20 I C 623

16 But if B acquiesced in the wrongful possession of A he cannot use force to eject A 18 C W N. 275 *22 I C 993*

17 Accused were playing music in celebration of their festival A gentleman feeling annoyed by the noise seized their drum whereupon they assaulted him They are guilty under S 352 but not under S 143 30 I C 687

18 A person is entitled to defend not only his personal or private right but also his *public right e g his right of way* 75 I C 176

19 An assembly does not become unlawful merely by reason of its lawful acts provokes others to do unlawful acts or by reason *of their repelling attack made by such* persons upon them 31 I C 343

20 There was a dispute regarding the tenant s grazing rights on the land Both parties had leases from the landlord and the Receiver It was held that their *bona fide* claims of right protected them 18 C W N *1245 26 I C 173*

21 Decree holder is not guilty of rioting for using force to turn out judgment debtor 1922 P 197 66 I C 817

22 Upon the determination *of tenancy* landlord is clothed with possession in the eye *of* law and he can use force to evict the tenant 1924 P H C C 29

23 In case of land lying fallow on the day of riot the question of possession may be decided on the further question of title 52 I C 881 23 C W N 693

24 No one has the right to vindicate his supposed right by use of criminal force.

of force to coerce the others into taking a certain course, whole assembly does not become unlawful. 1925 R. 243=88 I. C. 706=26 Cr. L. J. 1186

2 The prosecution must establish that (1) there was an assembly of at least 5 persons (2) That the object of the meeting was any one of the five objects mentioned in S. 141. (3) That accused shared that object with at least four others of the meeting (4) That accused intentionally joined the meeting. (*a*) Having knowledge of that meeting (*b*) He continued therein after having had that knowledge (5) That such unlawful assembly had been commanded to disperse (6) That such command to disperse was in the manner prescribed by law. (7) That accused joined or continued after such an order. (8) That he did so knowing that it had been commanded to disperse 1922 L 135=64 I. C. 373=23 Cr L. J. 5=3 L. L. J. 529

16. Refusal to disperse Ss. 145—151, I P. C.

1. The prosecution should give formal evidence to show that accused had the common object to resist the execution of a lawful order. 2 P. 134.

2. When the object of three persons was to draw a crowd and in fact they so collected fifty sixty persons, it was held that it was unlawful assembly and they were guilty when refused to disperse when ordered to do so 7 B 42

3. A procession of Hindus carrying musical instruments passed by a mosque A Sub Inspector ordered it to disperse, but it advanced and subsequently laid their instruments. Held, that two leaders of the procession were guilty. 47 A. 205.

4. It is not sufficient that in the opinion of Magistrate the assembly was likely to cause disturbance. 22 P. R. 1887 Cr.

5. The opinion of the Police Officer dispersing an unlawful assembly is inadmissible 7 B. 42.

6 Disobedience of order to disperse is no ingredient of the offence under 17 Criminal Law Amendment Act. 1932 S. 211

17. Resistance and obstruction.

1. The object of an assembly when it reached the Police Station was to obstruct by threat the Police in the discharge of its duty. Held, they were guilty under S 143 1924 A. 233=92 I C. 145=27 Cr. L. J. 193.

2. The fact that a Court exceeded its jurisdiction in issuing a warrant of attachment is no defence for assaulting the Court's officer who was acting in good faith 61 I. C 167=22 Cr. L. J 343.

3. A process server was assaulted by accused. It appeared that the warrant of attachment did not contain the name of judgment debtor or of the property. Held, accused were not guilty of rioting, although the person causing grievous hurt was guilty. 29 C. 244, 25 C. W. N. 209

4. Tenants resisted their ouster in execution of a decree obtained by the complainant against their landlord to which they were not parties Held, they were justified 15 C L. J. 80, 13 I. C. 1004.

5 Civil Court issued an injunction for the maintenance of bund but the District Magistrate ordered to cut it. The accused assaulted the cutting party and the Police and killed one and wounded others Held, that the accused had right of private defence 28 C W. N. 732.

6 A person legally empowered to make a *search* must strictly follow the procedure as to be the mode of conducting it otherwise persons obstructing or assaulting cannot be punished. 1 Bur. 152

7. Collector extended the time of the expired warrant, the Amin was assaulted. Accused are guilty. 38 I. C. 744.

18. Resistance to an illegal arrest.

A party of Policemen, on receiving information that certain persons were waiting near a Railway line to rob the train, went there and attempted to arrest them A fight ensued but the accused were secured and charged under S 147. Held, the Policemen had no justification to make arrest and the accused were not guilty. 7 P. L. T. 218.

Unlawful Assembly—(concld)

19 Resistance to an illegal search

1 When officers had no written order investing them with the powers to make a search, the accused who resisted them were not guilty under S 143 7 N W. P 209

2 When accused resisted the execution of an order which was made without authority by a Collector, and in so doing did not use more force than was necessary, they were not guilty (1883) 1 Weir 64 *See* 29 C 244

20 Resistance to order prohibiting procession

Where a Superintendent of Police issued an order under S 30 Police Act, prohibiting procession, any five or more persons joining or remaining in it are guilty unless they were unaware of the fact that no license had been obtained 2 P 134 31 Bom L R 1151

21. Ring leader

1 Accused was ring leader of a faction causing riot A person was killed in that riot Held, he should be sentenced to 10 years rigorous imprisonment 193? O 247=9 O W N 437

2 Where accused was constructively liable under Ss 302—149 and was not the ring leader, nor was directly responsible for murder, transportation for life is sufficient 1935 O 190=153 I C 978

22 Taking water by force

Where five persons assaulted together at a water head armed with deadly weapons to take water by force and to strike and vanquish any body who should stand in their way they constituted an unlawful assembly 7 L L J 576=26 P L R 820

23 Unlawful assembly held on land—liability of owner *See* Land holder—2

UNLAWFUL ASSOCIATION *See* Criminal Law Amendment Act

UNLICENSED GUN

The prisoner went out to shoot in a jungle with a companion They took up certain position and lay in wait for the game He fired at to the game and missing it, the bullet hit the deceased The accused was shooting with an unlicensed gun Held, he was not guilty as it was a pure accident 3 Bom L R 678, 25 B 680, 1925 B 134

UNLAWFUL COMPOUNDING OF OFFENCE *See* Gift to screen offender from punishment—1

UNLOADING PISTOL *See* Death by negligence—9

UNLOCKING HOUSE

Asking a Magistrate to do an illegal thing *e g* unlocking the house of petitioner on false or true allegations does not fall under S 182 I P C 19 Cr L J 895

UNNATURAL CONDUCT *See* Insanity

When the person admittedly knew that his wife was murdered at night yet he made no report to Police nor made any attempt to find out as to who killed his wife, his conduct was unnatural and he must be taken to be the murderer 1929 O 190= 116 I C 193=30 Cr L J 567

UNNATURAL OFFENCE S 377 I P C

1. Abetment of

1. In this offence, the other person is necessarily an accomplice and an abettor and his testimony requires corroboration 73 P L R 1918=19 Cr L J 946

2 For a conviction under Ss 114—377 it must be proved that the offence was committed and the abettor was present If the accused is only guilty of attempt, the conviction of the abettor should be under S 377 read with S 116 I P C 1935 S 78=1935 Cr C 302

2 Attempt

1 Although witnesses may honestly believe to be a completed act of sodomy, yet it may be nothing more than attempt 1884 A W N 25

Unnatural Offence—(*contd*)

2 Where accused spent himself before he could thrust his organ, he was not guilty of attempt It was a mere preparation 1934 S 206

3 Bestiality

Medical evidence is seldom required to sustain the prosecution The hair of the animal may be found on the accused or marks of blood or feculent matter upon his clothing, and in such cases analysis, or the microscope may enable a witness to express an opinion in proof or disproof of the charge It would be more important to discover animal hairs on the underclothing than on coat, trousers, etc *Taylor's Med Jur 1928, P 286 Lyon's Med Jur 1904, P 263 Lyon's Med Jur. 1935 P 415*

4 Essentials and Evidence

1 Conviction on uncorroborated testimony of the boy is justified 185 P L R 1915 =28 I C 154, 42 P W R 1914 Cr, 16 Cr L J 266

2 Accused who wore woman's clothes was prosecuted for being sodomite His anus was found distorted and was affected with syphilis Held that without specific acts he cannot be convicted for sodomy 6 A 204, 4 A W N 25

3 Coitus *per* os falls within the provisions of S 377, I P C 1925 S 286=87 I C 97=26 Cr L J 945

4 A charge under S 377 is one very easy to bring and very difficult to refute The evidence must be very convincing 1926 L 375=94 I C 257=27 Cr L J 593= 8 L L J 180

5 In a charge of sodomy stains of semen constitute important evidence Great weight must be attached to Chemical Examiner's Report 10 L 794

6. It is unsafe to convict on the uncorroborated testimony of the person on whom sodomy is committed unless for special reasons his evidence is entitled to special weight 73 P L R 1918=35 P W R 1918 Cr =47 I C 670

7. It is doubtful whether the act of having connection with a woman in her mouth falls under S 377 1 Weir 382 (1886) *Contra* 1925 S 286=26 Cr L J 915

8 Sexual intercourse per nose with a bullock is an unnatural offence under S 377 1924 L 261=35 Cr L J 1095 1925 S 286 Appr 1 Weir 382 Expl and not foll

9 Case should be tried by a Magistrate with S 30 powers 1936 L 256

10 Blackstone properly observes that it is a "crime which ought to be strictly and impartially proved, and then as strictly and impartially punished *But it is an* offence of so dark a nature so easily charged and the negative so difficult to be proved, that the accusation should be clearly made out, for if false, it deserves a punishment inferior to the crime itself *Ryan's Med Jur, 1836, P 198*

5. Impotency as defence *See* Impotency

6 Medical Examination

1 Examination of the passive agent may show stains of blood or seminal fluid or characteristic gonorrhœal discharge on his clothes, or person in the neighbourhood of the part If the individual is a young boy or a person unaccustomed to the offence there may be found about the anus bruising or excoriations of the mucus membrane or perhaps, slight laceration of the sphincter Dr J W Johnstone in *Ind Med Gaz* 1868, 213 states "Penetration seldom reaches beyond an inch, and the force expands itself on the semi lunar folds which in the empty gut droop on either side In every case of clear penetrative contact rupture will be found cutting horizontally outwards at the left superior or right inferior angle The shape of the wound is characteristic, and it cannot be produced by any hard substance A true sodomy wound is *triangular*, the base external with the sides of the triangle retreating into the fundament Any other portion of the mucus membrane is not ruptured by a specific act of sodomy *Lyon's Med Jur, 1904, P 252 Taylor's Med Jur, 1928, P 285 Ryan's Med Jur 1836, P 322*

2 "No man says Dr Beck "ought to be condemned on Medical Proofs only *Ryan's Med Jur, 1836, P, 322*

3 Absence of early medical examination presents unsatisfactory nature of prosecution case 1932 L 345=13 L ... 573=33 Cr L J 220

Unnatural Offence—(*concld.*)

7. Sentence

1 Juvenile offender should be awarded whipping instead of imprisonment *3 P. R.* 1834 Cr

2 Sentence of whipping is reserved for sodomy with aggravating circumstances 1932 S 143.

8 Signs of habitual—.

Male adults who *habitually* practice sodomy, *often affect effiminate manners, dress* like women, etc The habitual practice of the offence as an *active* agent gives *rise to certain charges in the genital organs, e g, elongation and constriction of* the penis and twisting of the urethra In an habitual *passive* agent, the skin around the anus may be found to have assumed a smooth appearance, instead of showing the usual series of folds extending "concentrically towards the anal aperture There also may be a "funnel like' or "trumpet shaped depression of the vites leading to the anus and the triangular sodomitic wound But the absence of these signs does not necessarily establish the innocence of the accused The presence of chancre about the anus or of gonorrhœal discharge from the rectum, is strong evidence that the individual has been the passive agent in the offence *Lyon's Med Jur Ed 1904, pp 261 262, and Ed 1935, P 414, Taylor's Med Jur 1928, pp 283 284*

UNSKILFUL TREATMENT. *See* Wound—17

UNSOUND MIND *See* Insanity

UNTRUE PRAISE OF GOODS *See* Puffing

USING EVIDENCE IN OTHER CASE *See* Evidence—42

USING FALSE COIN *See* Counterfeiting coin 6

USING FALSE EVIDENCE S 196, I P C *See* False Evidence—35

USING PLEDGED TURBANS *See* Wrongful loss—6

V

VACANT PLACE OR HOUSE *See* Criminal trespass—35

VACCINATOR

A vaccinator has no right to take lymph from persons without their consent 3 C. W N 626

VAGRANTS—SCURITY FROM— S 109, Cr P C *See* Security for good behaviour from vagrants

VAGUE ADMISSION *See* Admission—10

VAKIL S CLERK

1 Communication to— *See* Privilege—2

2 Whether person in authority *See* Confession by inducement—10

VAKALATNAMA *See* Power of attorney Forgery—30

VALUABLE SECURITY S 30, I P C

1 What is

1 A document creating or extinguishing legal rights is a valuable security. It must be original and not a copy 4 B H C R 8 6 B H C R 66

2 A counterfoil of a paying in slip purporting to be an acknowledgment of a receipt of a sum of money by the bank is a valuable security 1925 C 425=89 I. C 248=29 C W N 868—6 Cr L J 1304

3 The *document which on the face of it creates rights in* immovable property is valuable security, although it may become invalid 48 A 140

4 A 'Kabuliat is a valuable security although it relates to a period which has passed away 1925 N 337=88 I C 283=26 Cr L J 1115

5 A document which has been stamped but the signature is not across the stamp is yet a valuable security 35 A 430

6. An acknowledgment of receipt of an insured parcel is not a valuable security within S. 30. 50 C. 849, 21 A. L. J. 855. *See* 34 I. C. 99?=17 Cr. L. J. 272=1 P. L. J. 391, 10 P. R. 1913 Cr.
7. An account paper in which a person acknowledges a legal liability is a valuable security. 46 I. C. 293=19 Cr. L. J. 709, 12 M. 148.
8. A title page of an account book of a firm containing the names of partners and showing the capital contributed by each, if signed by the partners, may be valuable security. 38 C. 68.
9. An unstamped deed, though not admissible in evidence is yet a valuable security 12 M. 148, 7 M. H. C. R App 26
10. A document the registration of which was refused does not on that account cease to be a valuable security. 25 C. 207, 12 M. 48.
11. A deed of divorce is a valuable security as it extinguishes a legal right of the parties. 11 W. R 15, 67 I. C. 583=3 L. L. J. 283.
12. A claim to mere office of dignity, *e g*, *Loskur* is not a legal right and a *Sanad* forged to support that title is not a valuable security. 10 C. 584.
13. A decree is not a valuable security. 39 C L J. 122=28 C W. N. 414=81 I. C. 810
14. The original transit pass under S. 40, Assam Forest Regulation is a valuable security, for it creates right to transport forest produce. 1932 C. 390=36 C W. N. 505.
15. If a person puts his thumb impression on a blank paper, the understanding between him and the person to whom he delivers the paper ordinarily is that it is to be converted into a valuable security. 1932 P. 335=13 P. L. T. 588, 38 A. 430.
16. A settlement of account though not signed by any person is "valuable security." 2 M. H. C R. 247.
17. A promissory note executed by minor by force is a valuable security. 1933 P. 601 (1)=35 Cr L J. 123. 48 L. 140=1926 A. 57 Ref.

2. Forgery of—. S 467, I. P. C *See* Forgery—21.

3. Omission to produce—before Public Servant. S. 175, I. P. C. *See* Public Servant—35.

VENEDOR—CHEATING BY—. *See* Cheating—6.

VERANDAH. *See* Building.

Theft in a verandah may be a theft in building under S 380, if the verandah forms part of the building, which is itself used as a human dwelling or for the custody of property 1 P R 1881 Cr.

VERACITY OF WITNESS *See* Witness—103, Evidence.

VERIFICATION *See* False evidence—16.

Verification proceedings do not add any value to approver's evidence or to a confession and cannot be regarded as corroboration. 38 C. 559, *Contra* 52 C 595= 1925 C. 872

VERNACULAR RECORD. *See* Record—22.

VESSEL—PLYING UNSAFE S. 282 I. P. C.

VEXATIOUS COMPLAINT. *See* Compensation—4.

VILLAGER. *See* Witness—104.

1. Court should exercise special care in drawing inference against an illiterate and ignorant villager for previous statement, confession, etc. 1936 R. 455.
2. Where a villager gave his age as 16 while he was 30, High Court did not consider the confession made by him. 1936 R. 455.

VILLAGE HEADMAN. *See* Ss 24-26, Evidence Act (Lambardar)

1. Whether public servant.

A Lambardar while collecting land revenue is a public servant. But when he is collecting *Haq Buha* (customary due) is not a public servant. 1935 Pesh. 189.

Village Headman—(concld).

2 **Confession to—.** *See* Confession, confession to Police Officer.

3. **Evidence of—.** *See* Witness

VIOLENCE. *See* Criminal force, Rioting—15.

VIRGINITY.

To determine virginity following points should be considered .—(*a*) *The Breasts.*— In young adult girls the breasts are commonly firm and hemispherical, the nipples small and surrounded by areolæ from light pink through slightly darker shades of colour. It cannot be supposed that a single act of coitus will alter this The breasts are of little value as a sign of virginity (*b*) *The Hymen.*—The hymen is practically always present in a *Virgo intacta* in some form or other, but in rare cases it is congenitally absent. The hymen may be intact, but this does not prove non intercourse, because females have been known to conceive with hymen uninjured The presence of the unruptured hymen affords a presumtive but not an absolute proof that the woman is virgin. A woman may have an unruptured hymen, and yet not be a *Virgo intacta* The hymen may be ruptured by an adequate force of any kind or by presence of blood-clots during menstruation, from ulceration or other diseases (*c*) *The Vagina* —In girls who have not had intercourse the vaginal walls are rugose and firm (*d*) *Fourchette and Perineum* —The former is the thin posterior edge of the margin of the mucus membrane, the latter the edge of the skin, limiting the vaginal orifice In a *Virgo intacta* both of them are discernible and untouched. The fourchette is frequently ruptured by the first connection (*e*) In the cases of *rape* the presence of signs of violence, tears, signs of inflamation, discharges are all of material assistance *Taylor's Med Jur, 1928, pp 27—30. Lyon's Med. Jur, 1904, pp. 239—243, Ryan's Med Jur, 1836, P 311*

VOLUNTARY WITNESS *See* Witness—105

VOICE. *See* Identification—17.

VOLUNTEERING EVIDENCE

1. A witness actuated by malicious motives, making voluntary and irrelevant statement not elicited by questions put to him is guilty of defamation He cannot claim privilege. 1928 N 58=28 Cr L J 996=105 I C 320

2. The Judge should upon motion strike out answers that are not responsive to the question asked. Only that portion which is volunteered should be streiken out. Woodroffe and Amir Ali's Law of Evidence (1921) Page 897.

VOTING PAPER—FORGERY OF *See* Forgery—31

W.

WAGING WAR Ss 121 121 A, I P C

1. **Abetment.**

Abetment of waging war is equally an offence as commitment 34 B 394

2. **Charge**

Even if the charge does not set out the speeches alleged to be seditious under S 121, the proceedings would not be vitiated 77 I C. 481=1925 M 106=25 Cr L J 401

3. **Complaint of—** *See* Sedition—4.

If accused's name was not mentioned in the complaint though mentioned in the sanction by Government, he must be discharged. 15 C W. N. 98.

3-A. **Concealing design for—** S 123, I P C. *See* Concealing design to commit offence

4. **Conspiracy for—** S 121 A, I P. C.

1 An indictment for conspiracy must in ordinary and concise language state the facts relied upon by prosecution 16 C W N 105=13 Cr L. J 609

2 The essence of the offence under S 121-A is the agreement to do all or any of the acts mentioned in the section Act or illegal omission may not take place in pursuance thereof, 35 M 247

Waging War—(contd)

3 Where complaint was for waging war with persons known or unknown against the king and the known persons were mentioned in the charge Held that the charge could not be sustained 15 C W N 98=8 I C 1059

4 If several persons are charged with some conspiracy it is legally impossible to con vict some one of conspiracy and some of another 38 C 559

5 A conspiracy to wage war does not imply the existence of serious menace to th constitution or the stability of constituted authority in India 38 C 559

6 In order to prove conspiracy there must be evidence of overt act 16 C W N 105

7 A treasonable conspiracy must be of two or more persons to subvert the Governmen 38 C 559 35 M 247 16 C W N 1105

8 Although facts fall under S 121 A but Government may proceed under S 120 only 1934 N 71=150 I C 623=35 Cr L J 1097 1931 R 235=9 R 404=32 C L J 205 Dist 42 C 957, 25 B 90 1922 M 62 and 1924 M 487 Rel on 1925 A 230 Not foll

9 When conspiracy is in action it is immaterial whether weapons are used for aggres sion or resistence 1934 C 221=147 I C 32

10 If an institute is attacked as used by Europeans mere fact that there was only on official there would not take it away from the purview of waging war 1934 C 221=147 I C 32

11 Conspiracy to change form of Government without criminal force is no offence bu to establish complete independence outside British Empire is offence 1933 A 690

12 Conspiracy to deprive King Emperor of sovereignity is sufficient 1933 A 690

13 Mere agreement to do illegal act is sufficient 1933 A 690

14 Conspiracy is to be inferred from beliefs associations and activities of accused an from the statements they make in Court 1933 A 690

5 Essentials and Evidence S 121, I P C

1 So long as a person only inflames feelings or state of mind his act amounts to sedition but if he excites to action he is guilty under S 121 34 B 394 75 I C 299 =24 Cr L J 923

2 Waging war must be construed in its ordinary way Collection of men arms and ammunition for that purpose do not mean waging war 37 C 467

3 If the speech falls under S 121 and S 121 A the accused is liable to one punish ment only 75 I C 299

4 When the accused attacked the police and military along with others, used to hol mock trials asked people not to pay land revenue and to subvert the British Govern ment and establish Khilafat Government Held he was guilty under S 121 A 65 I C 859=23 Cr L J 203=1922 M 126

5 Accused publishing a book which advised people to take up sword and to practise Gurilla warfare and drive away the Government and white ruler is guilty under S 121 34 B 394

6 Compulsion is no defence to a charge under S 121 9 R 404

7 In order to constitute an offence of waging war it is neither the number of persons engaged nor the force employed nor the species of weapons carried that will consti tute overt act of treason but it is the purpose and intention the object which they have in view with which they assemble 9 R 404=1931 R 235=1931 Cr C 875

8 An organized attack on the forces of crown with a view to prevent the collection of tax by force amounts to waging war 9 R 404

9 In rebellion it is frequent that few are let into the real design but yet all that join are guilty 9 R 404

10 Rising and assemblage of multitude to attain by force any object of general public nature is 'waging war 1933 R 116=34 Cr L J 929 1931 R 235=9 R 404 Foll

Waging War—(*concld.*)

6. Sentence.

1. In practice the sentence varies with the degree of the seriousness of the acts done by each accused 1931 A. 504=33 Cr L. J. 94
2. When the plans of an accused were vigorously put into action and he was personally responsible for the death of innocent persons, sentence of death was proper. 1934 C. 221=147 I. C. 32.
3. In political offences severe sentences defeat their objects. 1933 A 690

VAIFS. *See* Kidnapping—23.

VAIVER.

1. Consent or—to irregularities *See* Consent—10.

2. Of Privilege *See* Privilege—15.

3. Of Right to demand de novo trial. *See de novo* trial—11

WAJ TAKAR (CHANCE) WITNESS *See* Witness—106.

WARDING OF BLOW BY VICTIMS *See* Wound—42,—14—11.

WARE HOUSE KEEPER *See* Breach of trust—11.

WARRANT. Ss 75—90, Cr. P. C. *See* Arrest, Search warrant.

1. Cancellation of—.

1. A Magistrate has discretion to cancel a warrant and issue summons instead, if sufficient cause is shown. 1 S L R. 69, 20 P. W. R. 1908 Cr.
2. When a Magistrate issued warrants of arrest and afterwards cancelled it, the District Magistrate has no authority to direct the re-issue of the warrants against the accused. 1. C W N *650.*

2. Conditional

A warrant that in the event of certain named person not leaving British India forthwith to be arrested is invalid. 18 B. 636.

3 Continuance of—.

1. When the law has not fixed any period, limiting the duration of a warrant, the presumption is that it remains valid until executed. 28 B. 129.
2. Warrant can be served even after its returnable date, unless it is cancelled or executed. 7 P. 478=1928 P. 466.
3. A warrant on which there is an endorsement for bail does not lapse on the date *mentioned for the appearance of accused.* After that date *only the direction to take* bail lapses, but the warrant continues in force until it is cancelled or executed. 13 C. W. N 1091.

4. Description of accused in—.

1. The person named in the warrant must be described with sufficient certainty and particularity. 18 B. 636
2. A warrant which directs the committal of "James Hastings" without any description of him is invalid, since it may lead to the arrest of any person bearing the [illegible] 9 B H. C. R. 154.
3. A warrant giving wrong name of the father of accused is invalid. 28 C. [illegible]
4. A warrant which does not contain the name or sufficiently clear description of [illegible] to be arrested is wholly *illegal.* *16 C. W. N. 1078.*

5. Description of offence in—.

1. The warrant must specify the offence. A warrant of arrest [illegible] tion is invalid, as abduction without intent is no offence. 15 [illegible]
2. Where the complaint under S 124-A., I. P. C, did [illegible] seditious speeches, although they were contained in the [illegible] was issued and the Magistrate refused bail. Held, that [illegible] refusing bail is illegal. 1929 L. 284=30 Cr. L. J. 1129.

Warrant—(*contd.*)

6. Form of.—

When any act does not provide a form of warrant, a form to be used in ordinary course under Cr. P. Code should be used. 18 B 636

7. General.—

The issue of general warrant, which means warrant to apprehend all persons committing a particular offence is illegal. 9 B. H. C. R. 154.

8. Illegal or irregular—. *See* Assault on Public Servant—3.

9. Issue of—in the first instance. *See*—9.

1. In the absence of special grounds mentioned in S 90, Cr. P. C. the Court ought to issue summons in the first instance. 5 N L. R. 125.

2. A warrant cannot be issued to a witness unless the Magistrate is satisfied that the witness will disobey or has disobeyed the summons served on him. 14 W. R. 20, 7 W R 37, 3 L. B R. 116.

3. If the Magistrate thinks that witness will not give evidence voluntarily, he can issue warrants in the first instance. 13 W. R. 1.

4. A person is not justified in absenting himself in response to a summons on the ground that he has sent a telegram to Court that High Court has stayed further proceedings in the matter. The Court is justified in issuing a warrant. 20 I. C. 142

10. Reasons for—

1. The recording of reasons is a necessary preliminary to issue of a warrant and omission to do so vitiates the warrant. 50 P. L. R. 1918, 5 N. L. R. 125, 38 M. 1088.

2. Where a warrant was issued to a woman in the first instance without recording reasons under S 90, Cr. P. C, the warrant is wholly illegal and the bond given by the surety for the woman's appearance has no legal force and cannot be forfeited 7 P. W. R. 1918 Cr, 22 P. R. 1907, Cr

3. A warrant was issued against an abducted person in a case under S. 498, I. P. C, on the application of complainant that she would escape Held, that omission to record reasons is mere irregularity. 22 Cr L J. 111, 18 A. L J 1149.

4. If the Magistrate had material before him sufficient to justify the issue of warrant and to which he applied judicial discretion and he stated in the warrant the reasons upon which he relied, the mere omission to record separately in the order sheet the reason for issuing warrant is immaterial 51 C 1 overruling 38 C. 89.

5. The Magistrates should record their reasons specifically in writing in the warrant, though not necessarily in the order sheet, before issuing warrant. Mere signing the warrant in the form given in the schedule is insufficient. 51 C. 1 (21).

11. Resistance to—. *See* Assault on Public Servant, Public Servant—32, Right of private defence—21—24.

12. Seal on—.

An unsealed warrant is void. 42 C. 708, 18 B. 636, 9 B H. C. R. 154.

13. Signature on—.

1. It is gross negligence on the part of a Magistrate not to sign his name in full, although it is mere irregularity. 19 Cr. L. J. 747=46 I C. 523.

2. Resistance to warrant not signed by the Magistrate is no offence. 18 Cr. L. J. 526

3. Signing not in full but by initials is a mere irregularity and does not vitiate the warrant 8 A. 293 *Contra* 23 C. 896

4. Signature must be by pen and ink and not by stamp 6 M. 396.

5. The signature must be by the presiding officer or not by any other Magistrate on his behalf. 18 Cr. L. J. 526=39 I. C. 494.

14. To witness. *See* Attendance of witness.

Warrant—(concld)

15 Who is to execute— *See* Arrest

1 The warrant must name the person who is to execute the warrant If the name is left blank the warrant is invalid 14 Cr L J 142

2 A warrant not addressed to bailiff as required by Form 154 of the Schedule V of Cr P C or to any other person is not valid 16 P R 1904 Cr

WARRANT CASE—TRIAL OF— S 251 Cr P C

1 It is not the conviction but the complaint notice to accused and the commencement of the trial that decides as to whether a case is to be tried as a warrant case or summons case L R I A Cr 185

2 Court cannot split up an offence into component parts which constitute minor offence so as to be able to try the case as summons case 1921 A 282

3 If a Magistrate tries a warrant case as summons case conviction will be set aside 29 M 372 1932 N 111 11 Cr L J 191

4 If trial is begun as warrant case Court cannot adopt the procedure of summons case on the ground that accused appears to have committed an offence triable as summons case 1927 A 270 22 Cr L J 146—683 17 P R 1887, 1928 L 294

WASTE LAND— *See* Criminal Trespass—36

WEAK INTELLECT *See* Murder 75—I Insanity

WEAPON *See* Wound

1 Blood on— *See* Blood

1 The weapon with which a wound has been inflicted is not necessarily covered with blood The popular view is that if much blood is found about a dead body, the weapon ought always to be more or less bloody In reference to heavy blunt instruments applied with force to the head severe contusions and fractures may be produced without immediate effusion of blood In reference to stabs the knife is frequently without any stains of blood upon it or there is only a light film which on drying gives to the surface a yellowish colour The explanation is that in a rapid blow or plunge the vessels are compressed so that the bleeding takes place only after the sudden withdrawal when the pressure is removed Even if blood should be effused the weapon in being withdrawn is sometimes clearly wiped against the edges of the wound owing to the elasticity of the skin The blood may have been removed by washing from the blade of a knife or dagger The handle and inner portions should therefore be closely examined If the blood on the weapon is coagulated this would render it probable that it had issued from the body of a living person *Taylor s Med Jur 1928, pp 415 416*

2 The discovery of blood stained weapons does not by itself prove that a person at whose instance these articles were discovered is necessarily connected with the murder of a particular person The discovery must definitely be shown to be connected with the murder of the person alleged to have been murdered 1935 L 805 (806)

2 Evidence from—

1 The alleged weapon may affect the question of the guilt or innocence of the accused Thus the character of the injury may show that it could not have been caused by the weapon produced by the prosecution The alleged weapon should be compared with the wounds themselves and with any cuts on the clothes It should be also examined for stains of blood and fragments of hair If a fire arm it may show signs of recent discharge *Lyon s Med Jur 1904 P 127, Taylor s Med Jur, 1928, P 117*

2 Weapons with sharp points but blunt edges such as arrows and spears tear through the tissues causing lacerated wounds as also do weapons with blunt points Pointed cylindrical instrument may produce linear wounds with irregular edges The cheap soft iron clasp knives so common in this country, tend to bend on encountering resistance evidence of impact on bone may explain the bent state of the tip of a knife produced in Court as the one used *Lyon s Med Jur 1935 P 182*

3 Causing contused wounds— *See* Wound

Weapon—(*contd*)

4 **Causing incised wounds—** *See* Wound

5 **Causing gunshot wounds** *See* Wounds

6 **Causing punctured wounds—** *See* Wound

7 **Causing different kinds of wounds—** *See* Wound

8 **Deadly weapon—** *See* Deadly weapon

9 **Hair and other substance on the weapon** *See* Hair

In some instances no blood may exist on the weapon, but few hairs or fibres may be found adhering to it, if the weapon is of bruising or cutting kind Under severe injuries to the head, a portion of brain may escape and deposited with the blood on weapon or elsewhere Such cerebral matter can be examined by a powerful microscope *Taylor s Med Jur, 1928, pp 417 418*

10. **Nature of—** *See* Murder—80

It should be noticed whether the weapon is sharp or blunt, straight or bent, and whether the edge is or is not notched These circumstances may throw light on the question of suicide or murder *Taylor's Med Jur, 1928, P 415*

11 **Position of—**

If a person has died from an accidental or self inflicted wound, likely to cause death either immediately or within a few minutes, the weapon is commonly found near the body or within a short distance of it If there has been any interference with the body, evidence from the relative position of it and the weapon will be inadmissible It is compatible with suicide that a weapon may be found at some distance, or in a concealed situation, but it is much more frequently found either grasped in the hand or lying by the side of the deceased If the instrument is firmly grasped in the hand of the deceased, no better circumstantial evidence of suicide can be offered If the weapon is not found or is found concealed at a distance, this is strongly presumptive of homocide, provided the wound is of such a nature as to prove speedily fatal *Taylor s Med Jur, 1928, P 414*

12 **What weapon caused the wound ?** *See* Wound

When a weapon is produced there is practically no difficulty in answering the question, could this weapon have inflicted this wound ? But the difficulties immediately begin when no weapon is forthcoming, and the witnesse s opinion is to be founded on an examination of the wound only. There are two fundamental properties of the skin which have great bearing on the subject, *viz*, *the skin is elastic, and is* in a living healthy state slightly on the stretch in all directions parallel to its surface It therefore follows that in punctures with blunt weapons the hole must be as a rule a little smaller than the diameter of the weapon, for the skin yields by stretching without tearing round the actual breach of continuity If the weapon is sharp at its point, but blunt elsewhere, the inequality may even be greater between the orifice and the weapon Similarly in incised wound the tension will draw the edges apart, so that the aperture has no accurate relation to the width of cutting edge A state with a double edged weapon may show a complete diamond shaped aperture, while one with a single edge and blunt back may show a half diamond shape, but unless the blunt edge is very broad it is unlikely to leave more than an elliptical split with one extremity torn *The skin is movable on the subcutaneous tissues* it is flexible fairly tough and somewhat sticky It follows then that when an edged weapon is drawn across the skin we may get several cuts from one action, separated from one another by small bridges of uncut skin Its stickiness and the jaggedness of the weapon explain the inversion and eversion of the edges of a stab wound, showing the direction of the last force used *Taylor's Med Jur, 1928, pp 352 353* It occasionally happens that the shape of a bruise corresponds closely with the shape of bruising violence or implement More frequently in bruises beneath the skin (superficial) the bruise has no relation whatever either to the shape of the object producing it or the amount of violence employed There may be deep effusion of the blood without any visible external bruise whatever *Taylor s Med Jur, 1928, pp 359 360*

13 **Pointing out—** *See* Murder—72, Pointing out—1

14. **Whether one weapon can cause different kinds of wound**

ll four varieties

Weapon—(concld.)

(incised, contused, punctured and internal injury) Hence the existence on the body of the same individual of wounds belonging to two or more of these four classes, does not necessarily indicate that two or more weapons were employed or that more than one person was concerned in their infliction *Lyon's Med. Jur., 1935, P 185, Lyon's Med Jur, 1901, P. 124*

WEARING GARB OF PUBLIC SERVANT *See* Public Servant—*51*.

WEIGHTS AND MEASURES Ss 264—267, I P. C.

1. Essentials and Evidence

1. Where five seer weight is short by one Tola, no offence is committed 3 A. W. N 224.
2. Selling milk by unstamped measure is no offence 1 Weir 223. (1884)
3. Where there is no complaint by purchaser and the search took place after dark and no fraudulent intent was proved, the accused is not guilty of keeping false weight. 38 P W R 1908 Cr
4. Where no standard is prescribed, no presumption of fraud can arise 9 Cr. L. J. 415.
5. If a person professes to sell by standard weight, he is bound to take reasonable care that his weights are not defective (1884) 1 Weir 225
6. The gist of the offence consists in the fraud and intention to cheat. 9 Mys. L J 387

2 Fraudulent intention

1. Where the accused got a weight for weighing grain from somebody and on seizure by Police was found to be five Tolas more than the standard weight Held, accused is not guilty unless it is proved that it was incorrect *1929* N. *239*=116 I. C. 671 =30 Cr L J 692
2. Where both purchaser and seller are aware of the actual measure used, there can be no question of fraudulent intent 40 A 84
3. The circumstance that the weight varies from the standard to give the accused considerable advantage suggests that it is used fraudulently (1883) 1 Weir 225.
4. A difference of one Tola in five seer weight might be allowed for wear and tear. 1883 A W. N 224

3 Inspection of—by Police Officer S 153, Cr P. C.

1. S. 153 authorizes Police Officer to enter any place for the purpose of inspecting or searching for false weight and measures 20 P R 1913 Cr.
2. To assume indiscriminately that some shopkeeper's weight is the correct one and proceed for comparison is not proper. 20 P. R. 1913 Cr

4 Joint trial

A Sub Inspector inspected a bazaar and prosecuted 68 persons on a charge of using short weights All of them were tried jointly and a joint reply was put on the file. Held, the trial is illegal. 20 P. R. 1913 Cr.

5 Possession of—.

1. Where accused sold liquor measuring it with glass which was not the prescribed measure of which they falsely misrepresented the capacity, it was held that they had not committed an offence under S 265 but under S 415. 36 Cr. R. 1888.
2. Mere possession of weights in excess of the authorised standard will not support a conviction 1 B. H C. R. 181.
3. The mere possession of a scale with a string not accurately tied at the centre of the beam, so that one scale outweighed the other, but which could be shifted at any time and might sometimes have been accurately tied was held not sufficient evidence of fraud 15 A. L J 897.
4. To prove that the weight or measure is false comparison should be made with standard weight or measure. Some reasonable allowance should be made for wear and tear and for rough and ready methods of bazaar shop keepers. 20 P. R. 1913 Cr.

WHIPPING S 390 to S. 396, Cr. P. C. *See* Whipping Act.

1. By instalment S. 393, Cr. P. C.

1. Accused was sentenced to whipping and the sentence was executed. An application for enhancement of sentence was made Held, that as whipping could not be executed by instalments, sentence could not be enhanced. Ratan Lal 537.

2. It is illegal to pass several sentances of whipping amounting to 30 stripes each on different simultaneous occasions 5 C. P. L. R. 23.

2. Charge

Where a person is tried for an offence punishable with whipping, the liability to whipping must be stated in the charge 5 M. 158.

3. Exemption from S. 393, Cr. P. C.

1. A person who is sentenced to 7 years' rigorous imprisonment cannot be sentenced to whipping in addition 33 P. R 1919 Cr.

2 A sentence of whipping passed on person under a sentence of death is illegal 1 M. 56

3 When a sentence of imprisonment is for less than three months, an additional sentence of whipping is illegal 2 Bom. L. R. 54.

4. Medical officer's certificate S 394, Cr. P. C.

A medical officer cannot give a certificate that the accused is fit to receive a portion of sentence 31 M. 84.

5. Number of stripes

Not more than one sentence of whipping and that not exceeding thirty stripes should be awarded at one time 82 P. R. 1866, 1905 U. B. R. (Cr. P. C.) 47

6 Procedure when whipping cannot be inflicted. S. 395, Cr. P. C.

1. The Court can revise a sentence of whipping by awarding solitary confinement 14 P. R 1899 Cr, 10 P. R 1889 Cr, 33 P. R. 1901 Cr.

2 The Court may remit the sentence altogether, even though it is competent to inflict a term of imprisonment in lieu of whipping. 1 L. B. R. *202*

3. Where a Magistrate sentences the accused to maximum term of imprisonment and whipping, he should remit the sentence of whipping altogether if whipping cannot be carried out. 2 Weir 449, 21 A 25, 11 P. R. 1901 Cr.

4 The Court which passed the sentence of whipping can revise it, even though sentence is confirmed by the Sessions Judge. 10 P. R. 1889 Cr.

5. Where the Magistrate who passed the sentence of whipping was transferred, the District Magistrate could commute it to one of imprisonment. 33 P. R 1901 Cr

7. Time for executing sentence of— S 391, Cr. P. C.

1. Whipping cannot be carried out before expiry of period of appeal. 45 P. L R. 1902.

2 It is illegal to hold that sentence of whipping should be carried out the very day it is passed. 1928 B. 138=109 I. C. 509=29 Cr L J. 573.

3 Sentence can be postponed for 15 days or until confirmation of the sentence on appeal, but it cannot be postponed till after the term of imprisonment has expired 4 Bom L R 929, 4 Bom L R 436, 1881 A. W. N. 138, 34 P. R. 1880

4. Where a magistrate ordered that prisoner be brought before him at the expiration of sentence of imprisonment and the sentence of whipping should then be carried out, the High Court cancelled the sentence of whipping as having become inoperative by lapse of time. 20 W. R. 72, 54 P. R. 1866 Cr.

5. Direction that sentence of whipping should be executed after the period of imprisonment is illegal 1934 P. 551

8 When proper

1. A sentence of whipping is not appropriate in the case of a person holding respectable position in life 9 P. W R 1917 Cr.

Whipping—(concld.)

2. Whipping cannot be awarded in default of payment of fine 5 P. R. 1866 Cr

9. Who can order.

A second class Magistrate cannot pass a sentence of whipping 7 B. 363

WHIPPING ACT (IV OF 1909).

General

When accused is liable to be punished under the Whipping Act, the charge must state the liability. 5 M. 158.

S. 3.

1. Under S 3 a sentence of whipping may be passed in lieu of any punishment of which the offender may be liable under the I P. C. ordering a man to be whipped after he has already served a part of sentence of imprisonment is illegal. 41 I. C. 149, 15 Cr L. J. 5.
2. In lieu of punishing offender by imprisoning or fining him the Court may punish him with whipping is illegal. 1925 M 183=82 I. C. 49=25 Cr L. J. 1185.
3. The offence of out-raging a woman's modesty is not punishable with whipping. Therefore house breaking in order to commit that offence cannot be so punished. 1925 A. 591=89 I. C. 146=26 Cr. L. J. 1282.
4. Substitution of 32 stripes for a sentence of one year's rigorous imprisonment is not ordinarily an enhancement of sentence within the meaning of S. 423 (1) (*b*), Cr. P. C., but substitution of sentence of 30 stripes for a sentence of 3 months' rigorous imprisonment is an enhancement and therefore illegal. 1929 R. 177=30 Cr. L. J. 946.
5. S. 3 does not apply to non-juvenile offenders. 15 Cr. L. J. 3=22 I. C. 147.
6. Whipping can be ordered for theft in lieu of imprisonment. 12 R 607.

S. 4.

1. Before a sentence of whipping in addition to imprisonment can be passed on a person convicted under S 394, I P. C., it must be proved that he himself caused hurt while committing robbery. 6 R. 48=1928 R. 112=29 Cr. L. J. 618.
2. A sentence of whipping may be imposed wherein the commission of robbery is caused. 44 A. 538=1922 A. 245=66 I. C 418.
3. An additional punishment of whipping cannot be passed on a person who has received an adequate substantive sentence for an offence under S. 436 I.P.C. 1928 O 111=110 I. C. 218=29 Cr. L. J. 666
4. High Court can pass additional sentence of imprisonment even when the sentence of whipping passed by the lower Court is already carried out. 1929 A. 322=119 I. C. 572=30 Cr. L. J. 1087.
5. When a person inflicts pain upon another and the offence is one which permits the penalty of whipping, it is a good thing to inflict that penalty. 44 A. 638.
6. Sentence of whipping in lieu of imprisonment is reserved for graver form of offences of sodomy. 1932 S. 143.
7. A sentence of whipping for an offence under Ss 457—511 is illegal 3 Bom H. C. R. 37.
8. S. 4 does not apply to theft. 12 R. 607.

S. 5.

1. If the sentence of whipping is passed no other sentence can be passed, for, the whipping is considered to be in lieu of a single punishment or a combined arrangement. 46 A. 174=1924 A. 455=81 I. C. 260=25 Cr. L J. 772, 16 B. 357, 1934 A. 976.
2. The word "Court" does not exclude the appellate Court 1929 A. 322=119 I C. 572=30 Cr. L. J 1087.
3. S. 5 does not supersede S 4 but is applicable alternatively with Ss. 3 and 4. 13 P. L. T. 573=1932 P. 334.

Whipping Act (IV of 1909)—(concld.)

4. A sentence of whipping in addition to imprisonment, on a juvenile offender is illegal. 1934 A. 976.

WIFE. *See* Husband and wife.

1. Bad character of—. *See* Murder 73—G

2. Breach of trust by— *See* Breach of trust—30.

3. Buying of—. *See* Betrothal.

4. Communication to—. *See* Privilege—1.

5. Maintenance to—. *See* Maintenance.

6. Possession of—. S. 27, I P. C. *See* Possession of wife or servant—6.

WISDOM TEETH—. *See* Age.

WITHDRAWAL

1. By private prosecutor in warrant case. *See* Withdrawal of case

2. By Public Prosecutor. *See* Withdrawal of case by Public Prosecutor. S 494, Cr P. C.

3. Compensation on—, *See* Compensation—8.

4. Difference between compromise and—.

1. A withdrawal must be with the permission of the Court and may be without the consent of the accused while compromise can be effected without the permission of the Court and implies the consent of the accused 21 C. 103, 20 C W. N. 1209

2. Permission to withdraw can be given only to the complainant while right to compound does not always belong to him 14 M. 371.

3. A Railway guard abused and assaulted a passenger, who made a complaint but afterwards intimated to the Court that as the accused offered apology, he withdrew the case. Held, that the Court should have treated it as a compromise 45 A. 145

4. On withdrawal of complaint Magistrate can award compensation, but not when the case is compounded. 24 P. R. 1883 Cr., 19 P.R. 1888 Cr.

5. Of complaint in a summons case S. 248, Cr. P. C.

1. A withdrawal of complaint is permissible only in summons case 21 C. 103, 5 M. 378, 10 P. R. 1888, 13 B. 600, 5 M. 378, 5 R. 136

2. Withdrawal can be permitted only if there was a proper complaint. If the Magistrate took cognizance of the case on Police report, the complainant cannot withdraw 23 M. 626.

3. Withdrawal against some does not amount to withdrawal against all 5 L 239, 23 Cr. L. J. 271, 21 C. 103, 112. 9 P. R 1896 Cr, 20 C. W. N. 1209, 66 I. C. 335

4. There is no absolute power of withdrawal. There must be sufficient grounds for the withdrawal. 53 C 631=1926 C 786=96 I. C. 648=27 Cr. L. J. 984.

5. It is discretionary with the Magistrate to permit the withdrawal of complaint. 20 C. W N. 1209, 42 A. 202

6. Where the complaint was withdrawn because there was no sanction, a fresh complaint after obtaining sanction is competent. 22 B. 711.

7. Only the complainant can withdraw complaint. 2 B. 653, 27 M. L. J. 617.

8. Accused against whom case is withdrawn is competent witness against co accused 25 B. 422.

9. A complaint can be withdrawn at any time 1933 L. 884, 36 M. 315.

10. Order allowing proceedings to be dropped is technically incorrect but was not interfered with in revision. 1933 L. 323=34 Cr. L. J. 718.

6. Of complaint in a warrant case.

1. In a warrant case, the Magistrate must proceed with the enquiry or trial in spite of withdrawal. 13 B. 600, 37 B. 369, 6 M 316.

Withdrawal—(contd)

2 Once the machinery of law is moved, the power of arresting its progress rests with the state. 5 R. 316=103 I C. 105

3. In a prosecution for criminal breach of trust, the complainant withdrew from the prosecution, the order discharging the accused is illegal 115 I C. 156=1929 M 7

4. Where a complaint under Ss 379—323, I P C, was withdrawn the withdrawal cannot be said to be unlawful because it may have been withdrawn because the complaint may not have succeeded 1929 A 456=116 I C 749

5. Magiserate cannot refer a petition for the withdrawal of the complaint to the Super intendent of Police to determine whether withdrawal should be allowed or not 1926 C 590=93 I C 1041=27 Cr L J 545

6 It is for the crown to consider whether proceedings should go on and not for the High Court to quash the proceedings on the ground that original complaint was made long ago and the accused is harassed thereby 5 P 452=1926 P 302=95 I C 929.

7. Accused was charged under S 394, I P C. The complainant petitioned the Court to withdraw the complaint and the Court discharged the accused under S 253, Cr P C Subsequently *he sought to set aside the order of discharge Held, that* though technically the order was incorrect, the Crown ratified the withdrawal of complaint by not appealing against it, the High Court will not interfere 1933 L. 323=34 Cr L J 718

7. Of compromise petition *See* Compounding of offences

8 Of remaining charges on conviction of one S 240, Cr P. C.

1. The remaining charge can be withdrawn when the accused is charged with several distinct offences and not where formal charges are drawn up against him 24 P R 1889 Cr

2. Accused was charged with 10 offences of criminal breach of trust and was convicted of three such charges, the High Court directed that no further proceedings in respect of other offences should be taken 9 C L J 257.

3. S 240 *applies to every* grade of Court and not only to trial Court 51 A. 977.

4. Where accused is convicted on one or more of the charges framed against him and the *complainant applies in revision* to inflict sentence on the other charges but subsequently withdraws the application, it amounts to withdrawal of complaint with regard to such charge with the consent of the Court and the accused should be acquitted 51 A. 977=1929 A. 899

5 Prosecution cannot, on conviction of accused in one case, withdraw charge against him in another case 10 C P. L. R. 1, 9 Cr. L J. 495.

6. Stay of trial or enquiry under this section amounts to acquittal 4 P. 503=1925 P. 623=27 Cr L. J. 359

7. If the conviction is set aside, Court may proceed with the trial of other charges. 1889 A. W. N. 8

9. Of plea of guilty. *See* Plea of guilty—8.

10. Time for—

The complainant can withdraw at any time before a final order is passed but not before issue of process An order of acquittal passed before issue of process is unmeaning and of no avail. 36 M. 315.

11. Who can withdraw.

1. *Only the complainant can withdraw.* In cases of *contempt of lawful authority* of a public servant he is the complainant and he can only withdraw the case and not the person injured by such resistance. 2 B 653

2. Where a municipal secretary instituted a complaint, the Municipal Council was not competent to withdraw. 27 M. L J 617.

3. High Court can pass whatever orders are necessary when charge has been withdrawn by Crown It does not recognize the alleged right of the *complainant to* have the guilty punished. 38 I. C. 441=18 Cr. L. J. 329.

WITHDRAWAL OF CASE BY PUBLIC PROSECUTOR. S. 494, Cr. P. C.

1. Accused—position of—after.

1. An accused person, after withdrawal of case under S 494 is a competent witness against his co accused 25 B 422, 33 C. 1353, 47 C. 154, 56 C. 1023, 1933 C. 148

2. A person against whom prosecution is withdrawn becomes a competent witness and he can be contradicted by his previous statement made to a Magistrate. 15 Cr. L J. 693=26 I. C. 141=8 C. W. N. 1213, 7 A. L. J. 86, 1926 N. 426.

3. If the Court sanctions the withdrawal of prosecution but omits to record an order of discharge and accused remains in custody, he cannot be examined as witness 33 C 1353.

4. After the withdrawal of prosecution against accused his evidence in subsequent complaint is admissible, but in practice little weight should be given to it without corroboration. 1935 C. 473=35 Cr. L J. 1248. 1931 C. 697=33 Cr. L. J. 19, 25 B. 422, 47 C. 154 Ref.

5 If a case is withdrawn against an accused, he cannot be tried again in the same proceedings. 1936 C. 356=163 I. C. 9.

2. Acquittal after—

1. If the case is withdrawn after the charge is framed, the accused must be acquitted and cannot be tried again 12 M. 35, 40 M. 976, 18 Cr. L. J. 329, 23 Cr. L. J. 305

2 In a summons case an order of discharge under S. 494 amounts to an order of acquittal. 24 Cr. L. J. 433.

3. An order of discharge passed on withdrawal of case under S. 494 is not an acquittal 1929 L. 315=114 I. C. 50=30 P. L. R. 58=30 Cr. L. J. 233.

4. In the absence of formal withdrawal of prosecution, the fact that Public Prosecutor allowed the Vakil to conduct prosecution in a private complaint, the accused should not be acqitted 54 M 593=131 I C 176=1931 M. 770=32 Cr. L. J. 690.

5. A withdrawal at the beginning of a case comes under S 494 (*a*) and amounts to discharge of accused but withdrawal after charge amounts to acquittal 1935 A. 366

3 Consent of Court and reasons for consent for—.

1 The failure to obtain Court's consent is a mere irregularity. 6 P. 208=27 Cr. L J. 1100

2. The Court must record reasons for giving consent to enable the High Court to judge whether the discretion was properly exercised 48 C 1105, 22 C. W. N 69, 26 C. W. N. 880, 1929 N 133=118 I. C. 63, 56 C. 1023.

3. It is not necessary to record reasons for consent. 2 P. 708, 3 P. 708, 5 M. L T. 216, 1930 S 156=124 I C. 378, 1923 L 163=72 I C 593, 1932 L. 250=136 I. C. 714, 1932 S. 92

4. Where the only reason given by the Court for allowing withdrawal was that on a previous trial in connection with the riot six accused had been punished. Held, that imprisonment of 6 accused is no atonement of the sin of accused and therefore the order of withdrawal was bad. 1924 C 382=71 I. C. 693=26 C. W. N 880, 41 I C. 998

5. Before acting upon the reasons given by Public Prosecutor, the Sessions Judge must examine the commitment record for himself 48 C 1105

6. Giving consent to withdrawal is a judicial act and reasons must be given for the same. 1923 N. 260=72 I. C. 361, 1924 C 382, 26 C. L. J. 208, 1 R. 756

7. Withdrawal of prosecution must be with the consent of the Court. S. 494 is not to be used by prosecution to get evidence of accused against co-accused. 1935 C. 473=36 Cr L J. 1248= 157 I. C 840 56 C. 1023=1929 C. 319=121 I. C. 678 Diss from

8 Court can give consent for withdrawal of case against accused for calling him as witness. But if S 337 is available it is better to use S. 337 than S 494. 1936 C 356=163 I. C. 9, 1929 C. 319.

Withdrawal of Case by Public Prosecutor—(contd.)

4 Discretion of Magistrate for—.

1. The Court has wide discretion to give consent or not for withdrawing the case but it must not exercise arbitrarily but on sound legal principles 56 C. 1023=1929 C. 319=33 C. W. N. 468.

2 The test is whether in giving consent, the Court has been influenced by circumstances which ought not to have been considered. 1931 C 607=134 I. C. 1045=33 Cr. L. J 3.

5. Fresh complaint on—.

1. Fresh complaint *is not barred by reason of discharge of accused* under S 494, Cr P. C. 1924 P 797=83 I C 689, 1930 C 369=127 I C 63, 28 C. 652, 29 C 726, 31 M. 543, 29 A. 7, 10 P. R 1911, 1922 P 372, 46 A. 88

2. An order of discharge under S. 494 *does not necessarily prevent the Magistrate from* taking cognizance of the case again but an order of discharge cannot be set aside and prosecution started afresh unless there are new materials available 1922 P. 372, 66 I. C. 76=23 Cr L J 236, 69 I C 625, 22 A 106, 40 C 71

3. When the order of discharge is proper one no further enquiry should be ordered although fresh complaint is competent 2 M W N. 74

4. If case is withdrawn by Crown under S. 494, a fresh complaint by injured person is not barred 1934 L 169=1934 Cr. C. 347, 10 P. R 1911 Rel. on

5. Where prosecution is withdrawn before charge and fresh complaint is lodged, the evidence of co accused in original prosecution is admissible, but it is not entitled to weight without corroboration 1935 C 473=36 Cr L J 1248=157 I C 840. 193 I. C. 697=33 Cr L J 19

6 Grounds for—

1. The Public Prosecutor cannot withdraw a case on the ground that complainant was keeping out of way and could not be served 2 Weir 655.

2. District Magistrate cannot direct Police to make further inquiries, when the accused are being tried by a Magistrate and as a result of these to direct the Public Prosecutor to withdraw the case. 1932 L. 611=140 I C 25=33 P L. R. 793.

3. Public Prosecutor should not withdraw prosecution for the purpose of getting evidence of accused against the co accused. 1935 C. 473=36 Cr L J 1248=157 I. C. 840. 56 C. 1023=1929 C. 319 Diss from.

7. Revision—.

1. High Court is in a position to consider whether the discretion vested in the Magistrate *to give consent has been rightly exercised.* 48 C. 1105.

2 Where a charge is withdrawn, High Court will not consider the question of legality of charge. 2 A. L. J 30.

3. High Court will not interfere with the order of acquittal under S. 494 at the instance of private Prosecutor, 2 P. 708, 5 M. L. T. 216.

4 If the Sessions Judge refused permission to withdraw, High Court will not be reluctant to interfere. 1926 M. 296=29 I C 750.

5. If sufficient reasons are given for withdrawal the High Court will not interfere. 1924 C. 538=71 I. C. 53, 26 S. L. R. 67.

6. When the Public Prosecutor withdrew a charge and Sessions Judge discharged the accused, the High Court could not set it aside although no reasons were given by the Sessions Judge or Public Prosecutor. 11 Cr. L J. 193.

8. Right of private Prosecutor to —.

1. A private Prosecutor cannot withdraw the case He could only move the District Magistrate for withdrawal 5 R 136=103 I. C. 105=28 Cr. L. J. 649=1927 R. 174.

2. A non-compoundable case can only be withdrawn under Ss. 494-495, Cr. P. C. and not by any private Prosecutor. 64 I C 273=22 Cr. L. J. 753.

3. If a private Prosecutor withdraws from the prosecution, the effect provided for in S. 494 will not follow and the trial will proceed. 1911 M. W. N. 106.

Withdrawal of Case by Public Prosecution—(concld.)

9. Right of Public Prosecutor and Court Inspector to—.

1. A Court Inspector withdrew the case under S. 494. Held, that order of discharge was illegal. 11 Cr. L. J. 722.
2. A Court Inspector is a Public Prosecutor and he can withdraw even if the complainant wants to proceed with the case. 57 I. C. 657.
3. A special Public Prosecutor can withdraw a case against persons subsequently impleaded. 34 I C. 976
4. When a complaint is filed and the complainant is given permission to conduct the prosecution, it is highly objectionable that after the charge is framed, the Public Prosecutor should withdraw the case even without consulting him. 46 A. 83=1924 A. 203=81 I. C. 618=25 Cr L. J 970.
5. Public Prosecutor appearing only for withdrawal, his action is not illegal though unusual 134 I. C. 1045.
6. On withdrawal by Public Prosecutor no inquiry under S. 494 is competent. 25 S. L. R 67.
7. A Prosecuting Inspector stated that there was no case under S. 218, I. P. C. Held, that it did not amount to withdrawal. 1935 A. 366.
8. When Police puts up a case under S. 173 before Magistrate, District Magistrate cannot direct further investigation and as a result of these inquiries direct the Public Prosecutor to withdraw the case. 1932 L 611.

10. Time for—.

Public Prosecutor has no right to withdraw the case at the appellate stage, even though the petition is inspired by the District Magistrate. 1927 C. 816=28 Cr. L. J 833.

WITNESS *See* Evidence

1. Accomplice *See* Accomplice

Police have no right not to charge persons against whom there is evidence because they require him as witness Where that course is adopted the evidence of accomplice so obtained is of little value 1935 B 186=37 B L. R. 179.

2. Accused

1. Persons accused in one case cannot be witnesses in the same case. 12 P. R 1902 Cr, 50 I C. 821=20 C L J. 341, 9 P. R 1906 Cr, 45 C. 720, 2 A. 260
2. A complaint was made to a Magistrate against A and B and process issued against A only, B was held to be a competent witness on his behalf. 10 C. L R 553.
3. A person jointly indicted and jointly tried with the accused (but not separately tried) cannot be called as a witnsse either for or against the accused. 2 A. 250, 10 B. 190, 16 B. 661 (665).
4. It is illegal for a Magistrate to convert an accused person into a witness except when a pardon has been lawfully granted to him under S. 337, Cr. P. C. 1 B 610
5. A person never arrested and against whom no process is issued, is a competent witness, even if principal offender. 16 B 661 (665).
6. An accused who is discharged or against whom prosecution is withdrawn is a competent witness against persons who were jointly tried with him. 25 B. 422, 1933 C. 148=34 Cr L. J. 675, 1929 C 319=56 C. 1023
7. Until the accused who pleads guilty is convicted or acquitted, he is still an accused and is therefore not a competent witness 4 I. C. 57=10 Cr. L. J. 484.
8. Accused can call as witnesses persons charged with him, though awaiting a separate trial for the same offence. 45 C. 720, 20 A. 426, 23 B. 213 (220), 3 R. 11.
9. It is repugnant to all principles of Criminal law to compel a person to give evidence in the very matter in which he is accused or is liable to be accused and then to use the statement on oath against him to prove his guilt. 50 B. 56
10. A person discharged by the Police, without being brought before a Magistrate is not an accused person and he can give evidence on oath in a trial of his accomplices. 16 B. 661, 4 L. B. R. 362.

Witness—(contd.)

11. A convicted person can give evidence in other proceedings 58 C. 1214.

12. Person separately tried is a competent witness against his accomplices 45 C. 720, 3 R. 11, 16 N. L. R. 9 *See* 46 C. 700.

13. When accused persons are tried separately each one, though implicated in some offence is a competent witness at the trial of the other 45 C. 720=45 I. C. 999=19 Cr. L. J. 663.

14. There can be no implied pardon if the accused is examined as a witness for the prosecution. 1935 P 91=36 Cr. L J. 500=154 I. C 387, 1917 C 261=35 I. C. 988=17 Cr. L. J. 428 Dist

15. It is contrary to the traditions of justice to prosecute a person after he has given his evidence for the prosecution. 1917 C. 261=35 I. C. 988=17 Cr. L. J. 428. Dist in 1935 P. 91=36 Cr. L. J 500

16. If three accused are tried jointly, prosecution cannot be permitted to examine one accused as witness against co accused by splitting up cases against them. 1936 S. 47=162 I C 863

17. Where one of the two accused was discharged and examined as witness against accused, and then proceedings were started against the former. Held, such prosecution is contrary to traditions of justice 1925 C 104=25 Cr L. J 311

3. Agent Provecateur *See* Agent Provecateur.

4. Allegations against—.

Crown witness must be given opportunity of denying any allegations against him, which form part of the defence 1927 S 104=99 I. C 98=28 Cr. L. J. 66.

5. Alleged Eye—. *See* Alleged Eye witness, Eye witness.

6. Approver. *See* Approver.

7. Associates.

1. Associates and friends of accused who voluntarily come and give him good character need not be brushed aside unless discredited with regard to their honesty or good faith. *1923 A 35=24 Cr L. J 257=71 I C 865*

2. Evidence of association with the accused is of no value 1932 L. 557

8. Attendance of. *See* Attendance of witnesses.

9. Attributing Remarks to—.

No weight is to be attached to merely attributed remarks, the imputation generally being a mere usual advice to supplement feeble evidence 1929 L. 436=118 I. C. 544=11 L. L. J. 58=30 Cr. L. J 941=30 P. L R 603

10. Box—. *See* Dais.

All witnesses, without distinction, must give their evidence from the witness box and it is not desirable that any one should give his evidence on the dais by the side of the Judge. 63 I. C. 461=22 Cr L. J 669

11 Caste people.

1. Defence evidence should not be rejected on the ground that witnesses were caste fellows of the accused and that they had come voluntarily without being summoned. 1925 O. 473=89 I. C. 147=26 Cr. L. J. 1283, 53 I. C. 156=20 Cr. L. J. 748, 43 A. 186, 1923 L. 436=75 I C. 733=6 L. L. J. 486.

2 It is not a sound ground for disbelieving a witness that he is of the same caste or community as the person in whose favour he deposes. 1926 P 36=90 I. C. 439 =26 Cr. L. J. 1559.

12. Chance. *See*—106.

1. Witnesses who depose that they saw the abducted woman singly at different times and different places and who cannot be adequately cross examined, should not be believed especially in S 498, I. P. C. cases. 100 P. L. R. 1916, 5 L. 396.

2. Witnesses are not casual in the sense that they come from a distance, if they reside near the house of complainant. 1932 A. 322 (323)

Witness—(contd.)

13. Changing side.

A witness who has changed sides and has made statements in favour of both the prosecution and defence is unreliable 1925 O. 725=88 I. C. 852=26 Cr L J. 1236

14. Character of— *See* Character, bad character.

15. Child— S. 118, Evidence Act *See* 'Child'.

1. There is no more dangerous witness than a young child. Any mistakes or discrepancies in their statements are ascribed to innocence and failure to understand and undue weight is given to what is merely a well taught lesson. Children have good memories and no conscience They are easily taught stories and live in a world of make believe, so that they often actually believe what they are taught to relate. 1929 C. 390=122 I. C. 209=31 Cr L J 373=33 C. W. N. 664, 1930 O 406, 1933 L 667=34 Cr L J. 606

2. When the Court is of opinion that the child upon whom an offence under S 376 I P. C., is committed is unable to give relevant information by reason of immaturity of judgment, it should not examine the child at all. 32 Cr. L J. 63=1930 L 337 =127 I. C. 862=31 P. L R. 612, 38 A. 49.

3. Before a child of tender years is actually examined in a case the Judge should test his capacity to understand and to give rational answers and to understand the difference between truth and falsehood. 11 C. W. N. 51, 38 A. 49.

4. If the child can give a rational account of what he has seen or heard or done on a particular occasion, he is a competent witness 11 A. 183, 23 A. 90, 1930 S 129= 120 I C 514=31 Cr. L. J. 114.

5. The mere fact that a Judge omits to put on the record preliminary questions to a child to test his capacity to give evidence, will not render the evidence inadmissible, if the Judge as a matter of fact is satisfied about the capacity to give the evidence 1923 P 91=66 I C 73=23 Cr. L. J. 233, 41 C 406.

6. The evidence of a child of tender years without solemn affirmation is admissible in evidence though it should be received with due care and caution. 38 M. 550, 38 A. 49, 45 I C. 497=20 Bom L R 365=19 Cr. L. J. 593, 1923 L 332, 1923 P. 91 61 I C 705

7. If the child who was raped, is unable to give relevant information by reason of tender years, the Court should not examine her at all. 32 Cr. L J 63=1930 L 337=127 I. C. 862, 38 A. 49 Foll, 41 C. 406 Not foll.

8. If a girl of six years gave reasonable and comprehensible answers, she was a competent witness 1932 C 723, and her evidence should be relied upon. 1921 P. 109= 22 Cr. L. J. 417=61 I C. 705

9. It is not likely for a child of seven years to distinguish between things which he has heard and those which he has seen, and when inconsistent statements occur in his evidence, much importance should not be attached to his testimony. 1934 P. 651. 1923 P. 91 Ref.

10. Children are a most untrustworthy class of witnesses, for they often mistake dreams for reality and repeat glibly as of their own knowledge what they have heard from others, and are greatly influenced by fear of punishment, by hope of reward, and by desire of notoriety 1933 L 667=34 Cr. L. J. 606.

16. Competency of—.

1. The only test of competency is that the witness should not be prevented from understanding the question put to him or from giving rational answers due to tender years or other causes 1927 P. 406=102 I. C. 349=28 Cr. L. J. 541.

2. When a witness is presented as witness, it may be objected (1) that he is incompetent to testify, (2) that an oath, or affirmation cannot lawfully be administered to him The first objection falls under S. 118, Evidence Act, while the second under S. 342, Cr P. C. 38 P. R. 1887 Cr.

3. An informer is a competent witness. 38 P. R. 1887 Cr.

17. Compulsory production of—.

Court cannot ask a party to produce a particular witness or his case will be dismissed 1924 L 617

Witness—(contd)

18 Conduct of— *See* Conduct

19 Confession to— *See* Confession to Police Officer

20 Convict as— *See*—26

21 Costs of summoning— *See* Costs

22 Counsel for accused as— *See* Counsel

1 Though a person may be both advocate and witness in the same suit but such a course is most strongly disapproved 40 C 898 29 I C 135

2 It is improper for a Counsel to appear in a case in which he may have to give evidence or in which he may be personally interested 1925 S 99=25 Cr L J 571, 1930 L 361 1933 R 34 1927 P 61=101 I C 289 40 C 898

3 Calling a Pleader for the accused as prosecution witness in the middle of a case is reprehensible Trial is vitiated whether accused is prejudiced or not 1925 M 1153=91 I C 65=27 Cr L J 33

4 No self respecting Counsel would like to conduct a case for the defence after having been called as a witness for the prosecution 1925 M 1153=91 I C 65

5 A Pleader merely called to give evidence as to what had occurred in a previous suit in which he was engaged as a Pleader cannot be allowed special fees 46 B 89

6 If accused s Counsel is to be produced as witness he should not be excluded from the Court room but should be allowed to conduct and plead 44 M 916

7 A counsel may make a statement robed from the Bar without being sworn on any matter within his knowledge in connection with a case But if he does not avail himself of this privilege he can give evidence from the witness box unrobed and on oath Taylor S 1381 1928 M 690 3 C W N 694 But *see* 27 C 428

23 Correcting deposition by— *See* Reading over statement

24 Corroboration of— *See* Accomplice—4 Corroboration S 157

25 Credibility of *See* Evidence—6

26 Criminal as—

1 No reliance should ordinarily be placed on the uncorroborated testimony of a criminal who has undergone sentence of imprisonment and who is under Police surveillance 1925 L 397 89 I C 311=7 I L J 219=26 P L R 518

2 No weight should be attached to the evidence of a witness who says not only that deeds were forged but that he himself had been a party to the making of them 6 B L R 507 Field s Law of Evidence in Br India Eighth Ed P XXIX

27 Cross examination of— *See* Cross examination

28 Debtor as—

To say that because one in the ordinary course of one s business owes money to certain person one should not be believed when speaking in favour of that person is too absurd 1923 R 30=70 I C 902

29 Defamation by— *See* Defamation

30 Defence— *See* Defence witnesses

31 Delay in disclosure by— *See* Delay—2—12

When a witness keeps quiet for many days after the occurrence and comes forward after the Police had made the discovery is not reliable 1923 L 438=84 I C 321=5 L L J 325=26 Cr L J 257 1922 P 348=67 I C 581=23 Cr L J 421

32 Demeanour of— *See* Demeanour

33 Denomination

Credibility of witnesses must not be judged from their denomination 51 C 418=1924 C 323=81 I C 264 11 C W N 1085

34 Departing without leave of Public servant S 174 *See* Public servant

35 Diet money to— *See* Diet money

Witness—(contd.)

36. Disbelieved as to one accused. *See* Evidence.

Evidence of a witness if held to be unreliable in respect of one accused, cannot be held to be reliable in respect of the other. 99 I. C. 857=3 L. L. J. 147=23 Cr. L. J. 185, 1934 O. 286.

37. Discharged accused as—. *See*—2.

An accused who is discharged or against whom prosecution is withdrawn is a competent witness against persons who are jointly tried with him. 25 B. 422, 1 B. 610, 55 C. 1023, 1933 C. 148=34 Cr. L. J. 675.

38. Disinterested—. *See*—61.

Disinterestedness of a witness is no ground for believing him to be true. The Court has to see whether his evidence is in consonance with probabilities and consistent with other evidence and generally so fits in with the material details of the case for the prosecution as to carry conviction of truth to a prudent mind. 1930 N. 103=122 I. C. 434=31 Cr. L. J. 417.

39. Distinction between prosecution and defence.

S. 118, Evidence Act, makes no distinction between prosecution and defence witnesses about their competency, credibility, etc. 3 R. 11=1925 R. 122=85 I. C. 236=26 Cr. L. J. 492.

40. Doubts about the veracity of—.

In order to discredit a witness it is not enough to suggest doubts about his veracity. 49 C. 132.

41. Dumb. S 119, Evidence Act.

When a witness is so deaf and dumb that it is impossible to make him understand the question put to him in cross examination, he is not a competent witness and conviction cannot be based solely on his evidence. 14 I. C. 655=13 Cr. L. J. 271=1912 M. W N. 100

42 Enemical.

1. If the prosecution evidence is disbelieved and conviction is based on the evidence of complainant who has serious enmity with the accused, the conviction is not sound. 1923 P. 519=72 I. C. 360=24 Cr. L J. 360.
2. In case of enmity between the parties, their evidence requires independent corroboration. 1925 L. 42=84 I. C. 937=26 Cr. L. J. 393.

43. Examination of—. *See* Examination of witnesses.

44. Examination of—by Pleader in his chamber.

There is nothing wrong in the Pleader or Advocate examining the witnesses in chambers before they appear in Court, as it is intended to find out what they have to say and conduct the case properly. 14 I. C. 763=13 Cr. L. J. 299.

45. Exclusion of—.

1. The rule as to exclusion of witnesses from Court until they have been examined is not without exception. It does not extend to parties or their Counsels who have to conduct the case. 44 M. 916, 62 I. C. 828, 1934 A. 840.
2. S 352, Cr. P. C., gives to the Court the power of ordering that any particular person shall not remain in Court, and the section makes no exception in the case of Police Officer. 1925 N. 296=26 Cr. L. J. 1130.
3. The universal practice in India is that when a witness is being examined, other witnesses should not be present. 1934 A 840=152 I. C. 30.

46. Expenses of—. *See* Expenses of witness.

47. Expert as—. *See* Expert.

48. Eye *See* Eye witness.

49 Friendship with—.

1. No inference of complicity in crime can be drawn from the fact of friendship with accused and his co villagers 1922 P. 88.

Witness—(contd.)

2. Witness being friends or relations of each other is insufficient for discrediting their testimony 1934 L 158

50. Hostile *See* Hostile witness

51. Husband and wife as—. *See* Husband and wife

52. Impeaching credit of— S 155 I E Act *See* Impeaching credit of witness.

53 Implicated in the crime himself

When the witnesses in a murder case implicate the accused only when they are faced with the necessity of exculpating themselves, their evidence is open to grave suspicion and no sufficient weight should be attached to such evidence 1930 P 338=1930 Cr C 710

54 Implicating innocent persons *See* Evidence—3

55. Important—

A Court should make every attempt to secure the evidence of persons whose evidence is extremely important for the case either by procuring their attendance or by Commission 99 I C 599=27 P L R 501=28 Cr L J 167

56 Improving upon former statement

1. It is unsafe to rely upon a witness who materially improves upon his former statement 212 P L R 1915, 1934 N 204

2 In this country, complainants with good and true cases, frequently are foolish enough *to try to improve it by devices so transparent that Courts have little difficulty in* separating the false from true 31 P R 1914 Cr

57 Imputation against— S 148, Evidence Act

1. A question put to an intended surety about his conviction thirty years old should be disallowed on the ground that it related to matter so remote in time that it ought to influence Court s decision as to the fitness of such surety 26 A 371

2 Though evidence may be given of facts as that the witness has brought or defended actions which have been dismissed or decreed against him, *or that he made false* charge and so forth but the evidence of particular opinion formed by a Judge in another case of the credit to be *attached to the testimony of a witness who is cross* examined, in a subsequent trial, is inadmissible 4 C W N 684, 5 P 777

58 Incriminating question to— *See* Incriminating questions S 132, Evidence Act

59 Indecent or scandalous questions to— S 15 , Evidence Act *See* Scandalous questions

60 Insinuations against—

A Court ought not to permit the making of insinuations against the defence witnesses as being related to accused, when the witnesses have not been questioned with regard to it 53 I C 156=20 Cr L J 748

61 Interested—

1 It is open to Magistrate to rely on the evidence of any person, although interested 1930 C 645, 51 M 956 1931 L 529 1929 M W N 587

2 Conviction based on the evidence of interested witnesses whose names were not mentioned in the First Information Report as eye witnesses and whose evidence is contradicted by other witnesses is not maintainable 92 I C 175=27 Cr L J 223

3 Conviction on the uncorroborated evidence of an interested witness, who was a collateral though not a near relative of the deceased whose family had enmity with the accused is not safe 1922 L 76

4 The mere fact that witnesses are relatives and interested is no ground to disbelieve *them if the point can only be established by their testimony* 32 I C 380

5 Where a fight takes place in a shop, it is scarcely likely that the shopkeeper and his family members would give evidence against their own customers Their inclination would be to say that nothing disorderly had taken place at their shop, which they *hold* under a license from the Government 2 P. 309=1923 P. 413=24 Cr. L. J 801

Witness—(*contd*)

7 Non production of some of the witnesses cannot in any way affect the credibility of the witnesses that have been produced 1924 L 241=73 I C 932=5 L L J 524 =24 Cr L J 705 2 P 309=1923 P 413=74 I C 705

8 It is of course not for the Police or Public Prosecutor to champion a particular theory and to suppress the evidence of a reliable witness simply because his testimony is inconsistent with it 2 P 309=1923 P 413=74 I C 705=24 Cr L J 801

9 All witnesses who prove their connection with the transaction, connected with the prosecution must be called excepting those that are untruthful or unnecessary 1924 M 239=75 I L 987=25 Cr L J 75

10 Where in a case under S 143 Penal Code there were four persons of the locality in the mob restraining and demonstrating and they were thus in a position to depose to the words uttered and conduct displayed by the mob, but these persons were withheld without offering any reason Held that this was sufficient to discredit prosecution version 1928 P 98=105 I C 234=28 Cr L J 506

11 The Police are entitled, if they like, to rest their case on the evidence of two or three eye witnesses but where there are many other people who could have given evidence in the matter, they should be called Omission to do so is a circumstance against the prosecution 1929 M W N 587

12 In a capital case, it is the duty of the crown to place before the Court all materials irrespective of the question whether they help the accused or the prosecution 8 P 279=1929 P 275=116 I C 770—30 Cr L J 675 8 P 625=1929 P 343=120 I C 37=30 Cr L J 1136 42 L 422

13 If a witness can on reasonable grounds be an accomplice the prosecution need not produce him 43 I C 241=19 Cr L J 81=21 C W N 1152

14 The duty of Counsel for the crown is not to secure a conviction but to assist the Court in arriving at the truth and consequently to call all such evidence as may throw light on the case 44 C 477 30 I C 128=19 C W N 923=16 Cr L J 576=21 C L J 396 42 C 957

15 In a criminal trial it is not incumbent upon the prosecution to produce all the persons who happened to have gathered at the spot where the offence occurred and the prosecution of two or three of the respectable and leading members of the village would suffice 112 I C 215=29 Cr L J 999=10 L L J 229

16 The duty of seeing that all evidence essential to the prosecution case is before the Court is thrown by Cr P C upon the Magistrate himself It is not open to a Magistrate to acquit on the ground that the prosecution had failed to produce a necessary witness 1925 O 667=88 I C 1012=26 Cr L J 1266

17 Where a number of witnesses who could have given important information were not produced the Judge should direct the jury to draw an inference adverse to the prosecution His omission to do so amounts to misdirection 50 C 318, 7 P 50=1928 P 31=104 I C 459 33 C L J 180

18 If the person who figured very largely in the evidence of approver is not produced, an inference against prosecution may be drawn 1931 L 408=132 I C 185=32 Cr L J 818

19 Withholding of evidence is a flaw in prosecution still each case depends on its circumstances 1932 L 500=33 Cr L J 497

20 When some of the eye witnesses prove the prosecution case and the rest are not produced there is no presumption in favour of defence 1932 C 871=36 C. W N 1038

21 Every person examined by Police need not be produced But in murder cases witnesses supporting the plea of *alibi* must be produced 1934 N 908

22 If the crown does not produce a witness in Sessions Court, although examined in Committing Magistrate s Court the Judge cannot compel crown to examine him or to tender him for cross examination He can examine him as Court witness or draw an inference against the prosecution for his non production 1935 S 60=1935 Cr C 248

Witness—(contd)

23 Prosecution is not bound to examine persons who will not support the prosecution case 1935 P 95=36 Cr L J 348=153 I C 466

24 For the non production of all the witnesses no adverse conclusion should be drawn if the evidence actually given is sufficient and unimpeached 9 Moor I A 516 1 W R P C 25

25 There is no corresponding inference against the accused He is merely on the defensive and owes no duty to any one but himself He is at liberty to rely on the witnesses of the case for the prosecution or to call witnesses or to meet the charge in any other way he chooses 8 C 121, 10 C 140

26 When prosecution does not summon a witness Court cannot summon him as P W at the instance of defence 1935 R 506

27 Prosecution should not avoid calling a witness merely because be is likely to give evidence in favour of accused 1934 A 908

71 Not believed in previous trial

The mere fact that a witness is disbelieved in a previous trial does not make him unreliable on the same facts in another proceeding 1931 L 38=130 I C 410=32 Cr L J 522 5 P 777 4 C W N 684

72 Not disclosing a crime

A person who was cognizant of the offence and omitted to disclose it for a time is practically accomplice and his testimony needs corroboration 1934 C 678 26 M 1 Ref

73 Not rescuing the injured person

Eye witness did not rescue the accused the presumption is that he did not see the fight 132 P L R 1915 100 I C 357.

74 Not remembering details

The fact that the witnesses do not speak to details too minor to be remembered at a time of excitement does not affect the truth of their testimony 1935 O 468=36 Cr L J 1151

75 Not summoned

Evidence of witnesses should not be discarded merely because they are caste fellows and not summoned 1934 A 735=152 I C 120 43 A 186=1921 A 278

76 Number of— S 134 I E Act

A For the prosecution

1 Order under S 110 cannot be justified if there are only two witnesses for the prosecution if the accused are respectable persons 37 P W R 1910 Cr =10 Cr L J 603

2 It is not illegal to convict a man on the evidence of only one witness It must entirely depend on the circumstances of each case 51 M 955=1928 M 1186=30 Cr L J 317, 11 Mys L J 468 52 A 1005 1934 O 244

3 If a number of witnesses saw the occurrence the prosecution need not produce all and the production of two or three of the respectable and leading members of the village would suffice 112 I C 215=10 L L J 229=29 Cr L J 999 1928 P 46=104 I C 708

4 It is not illegal to convict an accused on the statement of only one witness but the evidence must be free from all doubt 1925 L 295=84 I C 436=26 Cr L J 292

5 It is the weight of evidence and not the number of witnesses which the court has to consider in a case 1921 O 115=63 I C 407=22 Cr L J 647

6 The quantum of evidence does not depend upon the enormity of crime yet it is safer to follow the rule that fouler the crime the clearer and the plainer the proof ought to be 59 I C 858=22 Cr L J 154, 1933 S 166

7 A conviction for murder based on the uncorroborated testimony of a single witness, once before discredited cannot be sustained 12 I C 96=12 Cr L J 488

8 One witness is sufficient for a conviction under S 193, I P C 53 A. 598

Witness—(contd)

9 If a single witness attest several circumstances each of which is capable of corroborating evidence and if no such corroborating evidence is produced there must be great confidence in the integrity and veracity of this single witness before all these circumstances can be believed on his sole testimony *Gilbert on Evidence, P 180 See Field's Law of Evidence in Br India 8th Ed, P xxvi*

10 As a general rule a Judge should *weigh* nor number witnesses But the witnesses under certain circumstances can be of great importance Where direct testimony is opposed by conflicting evidence, or by ordinary experience, or by probabilities supplied by circumstances of the case the consideration of number of witnesses becomes most material *Ibid, at P xxv*

11 In false cases there is generally no lack of witnesses and any deficiency in the *weight* of witnesses is made up by *number Ibid at P xxv*

12 Uncorroborated statements of single witness especially when they testify to atrocious crimes, like rape, etc or a known like accomplices to be persons of bad character, or are interested in the result are insufficient for conviction *Ibid*

B For the defence

1 Where a number of respectable persons have given evidence in favour of accused, the court should not reject their evidence simply because prosecution have produced larger number of respectable witnesses 1925 O 501=85 I C 370=26 Cr L J 530 1935 A 850=158 I C 424

2 The Magistrate has no right arbitrarily to limit the number of defence witnesses but can refuse to summon under S 257 Cr P C on the ground of vexation or delay 1926 L 454=93 I C 1039=27 Cr L J 543

3 Where a large number of respectable witnesses testify to the good character of the accused as against meagre prosecution evidence or the evidence of Police Officer, an order demanding security under S 110, Cr P C is not justifiable 9 L 133—2 P R 1898 Cr, 37 P W R 1910 Cr, 85 I C 370

4 The Magistrate has no power to curtail the number of witnesses except on the ground that their examination will delay or probably defeat the ends of justice 2 P L T 330=61 I C 718=1921 P 308=22 Cr L J 430

77 Oath to— *See* Oaths Act

78 Officials as—

Statement of High Government Officials should be considered like the statement of other persons Court should not surrender its judgment to such officer 1935 S 223

79 Omission of the name of—in F I R *See* First Information Report—14

80 Order of production of— *See Examination of witness—13*

The witnesses as far as possible should be called in the order of events which they are called to prove and in chronological order *1923 C 579*

81 Partisans as— *See* Interested

1 If there are two factions, evidence of either parties should not be believed unless borne out by *some documentary* evidence *1927 M 820*=103 I C *134*

2 Where the witnesses are partisans there is always a tendency to strain a point in favour of friend It is doubtful if they can conceive that they are thereby doing something improper 1929 O 494=119 I C 337

3 When there is a party fight, it is conventional to include in the list of offenders, all the adult members of a family and their connections by marriage 1929 M W N 789

4 Where the case is between two rival factions in a village and all witnesses *against* the accused belong to the family of the deceased some corroboration is necessary otherwise accused should be given the benefit of doubt 1935 L 130=1935 Cr C 189.

82 Pleader as— *See—22*

83 Policeman as—

1 To discredit witness merely because he is Policeman is impossible 3 L. 144,

Witness—(concld)

104 Villagers as—

For some reasons best known to himself an Indian villager never says "there was general kicking and beating but works out an analysis of fists and feet and right sides and left sides, which is easily shown to be ridiculous, but which does not prove him to be telling lies It is merely his habit of thought and speech 123 I C 43 =31 Cr L J 477=1930 M W N 74

105. Voluntary —

The evidence of voluntary witnesses who come forward as friends or associates of accused to give him good character, without being summoned should not be brushed aside, unless discredited with regard to their honesty or good faith 1923 A 35 43 A 186, 1925 O 473

106 Waj Takar—

1 A witness who deposes that they saw the abducted woman at different times and different places should not be believed in S 498 cases as they cannot be adequately cross examined 100 P L R 1916 5 L 396

2 Waj Takar or chance witnesses are easily procurable 1925 L 319=26 Cr L J 1086=88 I C 30

107 Woman of loose character as—

It is not safe to rely on the statement of a woman of loose character without strong corroboration 12 P W L 1911 Cr

108 Zaildar —

1 Zaildars and Safaid Poshes are not Police officials But it is to their interest to give evidence on the Police side 110 I C 674=29 P L R 539=29 Cr L J 738 1924 L 49

2 Zaildars and Lambardars are stock witnesses of the Police and they should not be believed in Political or semi Political cases especially when they appeared in number of such cases 1923 L 333

3 The evidence of Zaildars and Safedposhes is not to be discarded because of their position though in some cases it may be suspected It ought to be tested in the ordinary way 1934 L 870

WITNESS BOX *See* Witness—10, Dais

WOMAN OF LOOSE CHARACTER *See* Witness—107

WOUND

1 Abrasions

1 Abrasions are indications of friction between the surface of the body and some hard object being in most cases the ground *Lyon s Med Jur 1935 P 147*

2 Extensive abrasions are always suggestive of accidents Smaller abrasions over points where bone closely underlies the surface are usually the result of falls Such injuries are generally found on the forehead elbows and the knees in falls forward, falls in other directions may be indicated by abrasions over the screen over the scapula or over one or other crest of the ilia *Ibid P 148*

3 Abrasions may be of *ante mortem* or *post mortem* production *Ibid*

4 The shape of an abrasion may on occasions give useful information A person knocked down by a motor car may bear on his body the mark of the shape of a honey comb like abrasions made by the radiator *Ibid P 150*

5. The abrasions caused by the finger nails are crecentic in shape They are seen in case of throttling children and adults The marks are seen on both sides of the neck But if only one hand has been used there may be several crecentic abrasions on one side of the throat and there will be only one on the other *Lyon s Med Jur 1935 P 172*

6 Mark left by ligatures used in hanging or in strangling are in effect abrasions caused by destruction of the epidermis Strangulation is sometimes accomplished by compressing the throat with some hard object, *e g* a billet of wood, in such cases abrasions will be formed on the front of throat *Lyon s Med Jur, 1935, P 204*

Wound—(*contd.*)

2. Concussion or commotion.

It is a term applied to the shaking of an organ by a blow or fall, more or less remote from it, which causes derangement of its function or lesion of its structure Thus a blow or fall on the head, feet, knees or body, causes concussion of the brain, which may be followed by slight stunning, by hæmorrhage from the ears, nose or eyes or by immediate death. Concussion of the spine may or may not affect the brain, and if violent, will be followed by paralysis of all the parts ... ..A violent blow on the stomach, will suddenly extinguish life, by injury of the nerves, and paralysis of the whole nervous system, and yet no mark of lesion can be observed in the organ on dissection. *Ryan's Med. Jur., 1836, P, 325.*

3. Contused wounds.

1. *Definition and cause.*—(*a*) Concussion is an injury, and sometimes a wound, inflicted by a hard, blunt instrument without loss of substance, or wound of the skin, but with laceration of the cellular tissue, and extravasation of blood, either diffused or congested on the skin or in the cellular tissue, if the skin be divided, it is designated a contused wound *Ryan's Med. Jur. 1836, P 323. Lyon's Med. Jur., 1935, P. 172.*

(*b*) Contused and lacerated wounds are often the result of injury by means other than the employment of a weapon They may result from (1) injuries by broken glass If slight they resemble incised wound, (2) Fall on some projecting, more or less sharp object, (3) Injuries from wild animals, or (4) Machinery and Railway accidents Severe contused and lacerated wounds are often accompanied by very little hæmorrhage due to shock or bursting or crushing of vessels Contusions or bruises include all degree of injury produced by blows, kicks or sudden pressure from explosion's. *Lyon's Med Jur, 1904, pp 120—123*

2. *Duration of injury.*—In almost all contusions there is more or less extravasation of blood into the tissue constituting ecchymosis. Ecchymosis shows itself as a dark dull reddish blue discoloration of the skin, which in about twenty four hours begins to change colour, becoming lighter, and finally disappears altogether in about five or six days. Superficial ecchymosis appears within a few minutes after injury, and is first of a bluish black colour *Lyon's Med Jur, 1935, P 174.*

3. If a weapon has been used, it will probably have been a blunt or rounded one, such as a stick or club. Frequently the shape, etc, of the weapon or instrument employed can be *inferred from the shape, and situation of the patch or patches or* ecchymosis. *Ibid.*

4. *Weapons*—Weapons commonly employed are *lathi, lathi* bound with iron (*loha bandi*) rice pounder, shoes, ropes, or cords or splitcane *Taylor's Med Jur, 1928, P 356.*

5. The injuries produced by blows from blunt instruments on the scalp, owing to the free manner in which it moves on closely to adjacent bones, has a close superficial resemblance to *cut-wounds Taylor s Mad Jur, 1928, pp. 422-23.*

6 *Force of blow*—Effusion of blood proves little in itself as to the force of blow. The amount of blood varies with the form of instrument, the part of the body struck, and even with the individual young or old. *Criminal Investigation by Dr. Hans Gross, 1934, Ed P 416*

4. Direction or position of the assailant *See*—12 (C)

1. If the direction of the striking instrument has been perpendicular to the part struck, the surface of separation of the wound appears cut, bruised, or crushed, while if the *instrument has glanced on one side, the wound is ragged or torn Criminal Investigation by Dr. Hans Gross, Ed 1934, P 416.*

2 It is now established that Walls theory that the direction of the blow can be established from the aspect of wound is correct *Ibid, P. 417.*

3. When two men are fighting, it is hazardous to conjecture as to their relative position from the nature of injuries 1935 R. 391.

5. Directly fatal (causing death directly).

1. A wound operates as direct cause of death when the wounded person dies either immediately or very soon after its infliction and there is no other cause internally or externally, to account for death. *Taylor's Med. Jur. 1928, P. 326, Vol. I.*

Wound—(contd.)

2 Death from a mortal injury may occur by ; (*a*) Coma, *e. g*, from pressure on the brain or fragments of bone or effused blood (*b*) Asphyxia, *e g*, from paralysis of the movements of respiration, or mechanical interference with this process ; (3) Syncope from loss of blood or from mechanical impediment to the heart's action, or (4) shock, as in death from concussion of the brain, or from the effects of a violent blow over the region of the solar plexus *Lyon's Med. Jur. 1901, P. 176*

6. Ecchymosis.

Ecchymosis or blackness is an extravasation of blood by the rupture of the capillary vessels, and hence it follows contusion When ecchymosis is caused by injury, it generally appears in a short time, or in a few hours, but some times not before the lapse of days The part appears red and bluish, then black or leaden colour, next violet and yellow, and is marked most in the centre. Its pro gress and duration will be modified by age and constitution *Ryan's Med Jur, 1836, P. 323.*

7. Fall from height

1. When considerable force is exerted, as in the case of a fall from a height, crushing under a heavy weight, etc, serious internal injuries may be caused without slightest external marks *Criminal Investigation by Dr. Hans Gross, Ed 1934, P 416*

2. Even when there is no internal rupture, death may follow from shock. A man was thrown from the top of balcony or verandah, but there was no external wound. Four days after he died. *Post mortem* disclosed a rupture of the liver nearly two inches in length A man was thrown from the bullock cart, and fell on his head, without losing his hat, which saved him from external injury His death was found to be due to shock. *Ibid, P 417.*

3 A blow or fall on the head, feet, knees or body, causes concussion of the brain, which may be followed by slight stunning, by hæmorrhage from the ears, nose or eyes or by immediate death Concussion of the spine may or may not effect the brain, and if violent, will be followed by paralysis of all the parts A violent blow on the stomach, will suddenly extinguish life, by injury of the nerves, and paralysis of the whole nervous system, and yet no mark of lesion can be observed in the organ on dissection *Ryan's Med Jur, 1836, P, 325*

4. The term *Distortion* is a serious injury followed by engorgement which may not be dissipated for weeks or months, according to the habit and constitution of the patient There is sometimes stiffness of joints, sometimes relaxation of the liga ments, which is to be ascribed to scorfulous or ricketly disposition *Ryan's Med Jur 1836, P 326.*

5. A blow from the front will cause a fall on the back, a push from behind will throw the recipient on his face When the fall is not due to any force, but to sudden loss of consciousness, the body will fall on its face The question of the direction of the fall may be of great importance in some cases *Lyon's Med Jur., 1935, pp 133-134.*

6 Smaller abrasions, over points where bone closely underlies the surface, are usually the result of falls *Lyon's Med Jur, 1935, P 117*

8 Fracture of bones (and fall)

1 The bones of aged persons are sometimes very brittle and slight violence will pro duce fracture Fracture may be ascribed to spontaneous causes Thus bones have been fractured by moderate muscular exertion The elbow, heel bone, and knee pan and femur in old people are particularly exposed to this accident. The arm of a healthy man has been broken by throwing a cricket ball *Taylor's Med Jur, 1928, pp 168 169*

2. Fractures if simple are not dangerous, but if compound or comminuted, especially in or near joints, they are often serious and may terminate fatally. *Ryan's Med. Jur, 1836, P 326, Taylor's Med Jur, 1928, P 170*

3. The period of consolidation of fracture varies with age and constitution, *e g*, the same kind of fracture will be united in twenty days in an infant, in thirty or forty days in an adult, and fifty or sixty days in an aged person, or perhaps not at all *Ryan's Med Jur 1836, P 326*

Wound—(*contd*)

4. Fractures will not be united so soon in patients affected with *gout*, *scorfulla*, *cancer*, or venereal disease, mollities, or frigilitas assium, as in healthy individuals *Ibid*.

5 A fracture produced shortly after death, while *the body is warm, and another* produced shortly before death will present similar characters, except that in the former case there might be less blood effused A fracture caused ten or twelve hours before death would be indicated by a copious effusion of blood into the surrounding parts and between the fractured edges of the bones, as well as by the laceration of the muscles, or if a longer period before death, there may be marks of inflamation Fractures caused several hours after death are not accom panied by an effusion of blood *Taylor's Med Jur, 1928 Vol I, P 470*

6. *Whether fracture is due to blow or fall*—Suppose that the deceased is annoying and following prisoner The prisoner, turns round and pushes (he says), and strikes (says the prosecution) the deceased, who falls and dies speedily from head injury Although the evidence of a blow or push may be conflicting, it may be very material for the purpose of awarding punishment The answer is by no means easy, but the following points my help materially to determine blow or fall —(*a*) The nature of spot or ground upon which the head was alleged to have fallen, soft earth, for instance, or a hard flagstone If on soft earth, was there a sharp stone or bit of brick or other hard substance with which the head could have come in contact ? (*b*) *How did he fall* forwards, backwards or sideways (*c*) *The number and nature of the injuries* If a fight is admitted many of these may be due to it, but if only one blow, or none, is admitted, then one fall can only account for one injury (*d*) *The position of injury* In a simple fall it is almost impossible for the vertex to be injured, unless the victim is knocked down when standing about his own height from a wall, and in the fall thus brings the top of his head against the wall *Taylor's Med Jur, 1928, Vol I, P 441*

7. In examining a fracture it is important to determine whether a *weapon* has or has not been used, and this may sometimes be ascertained by the state of the parts It is common defence on all these occasions to attribute the fracture to an accidental fall *Taylor's Med. Jur, 1928, Vol I, P 468*

9. Fracture of the skull

1. *With pointed weapons*, or with weapons the *striking surface* of *which is small in* proportion to the momentum of its impact such as the blunt end of a hammer (*a*) the shape of the depression *on the outer surface frequently corresponds pretty* closely to the shape of the contact area of the weapon, or (*b*) a local starred fracture *is produced, which may or may not extend beyond the area of depression Taylor's Med Jur 1928, P. 439, Vol I*

2. *Splintering of the tablies* In the case of local fractures the table of the skull which at the moment of impact is furthest from the force is splintered to a large extent than the table nearer to the force, *owing to* the *fact that it is*, *qua* the force unsupported This ascertains the direction in which a solid object has passed through the skull *If such a starred local fracture has a limb extending from the* locality, such limb will follow the rule, *viz*, the line of fracture shall be parallel *to the line of direction of the crushing* force, most frequently starting *from the* point of contact Thus a blow on the side of the head produces a fracture running across the base and over the vertex from side to side If the head be supported, and so prevented from moving, the fracture may start at the point of contact of the blow, or at the opposite point where the head was supported for example, in falls on the vertex the fracture may have begun either at the vertex or at the base *Ibid, P 439*

3. It is obvious that the greater the violence, as in train smashes or contact with heavy vehicles the more difficult it is to actually trace these lines of fracture *When the force causing the fracture is* broad *one there may be extensive* fracture and separation of the bones of the head without any division of the skin. *Ibid, P 440*

4. A blow on the head *may produce fracture of the* inner table of the skull, and cause death by *compression* as a result of the *fracture or of the effusion* of the blood. The bones between the orbit and the brain are very thin, and, *in young persons* especially, very easily perforated *Ibid, P. 440*

Wound—(contd)

5. A stick a gimlet a pair of scissors a birch broom, a tobacco pipe a pen holder have all been recorded as producing such fracture *Ibid P 440*

6 A person is occasionally sensible so long as the foreign substance which produced the fracture and depression remains wedged in the brain insensibility and other fatal symptoms beginning to manifest themselves only after its removal *Ibid P 440*

7. Fracture of the skull of a fœtus in utero was caused by a fall *See Casper (iii), P 115 Lyon s Med Jur 1934, P 317*

8 In case of fracture of skull intention to cause death is presumed 1936 R 46= 37 Cr L J 290

10 Gunshot *See* Attempt to murder—4 Murder—30

A *Accidental—*

1 The accidental discharge of firearm may result in the wounding of the person holding the weapon or of some other individual In the first case the wound will be on the front of the body, and will often be from below upwards as the weapon is generally discharged while it is being examined, when the muzzle is probably pointing upwards *Lyon s Med Jur, 1935, P 234*

2 In connection with such accidental wounds the characteristics of a close discharge will be found If an individual other than one handling the gun is wounded it will not be possible to distinguish the injury from a deliberately inflicted one In cheap revolvers gas escapes at the time of discharge This gas carrying with it unconsumed powder will stain the hand holding the weapon Blacking of the hand is proof of suicide or of accident *Ibid P 234*

B *Diagnosis of—*

1 Gunshot wounds resemble contused and lacerated wounds If the wound is single it may have been caused by a firearm loaded with powder and wadding only, if the weapon has been discharged near the body Two orifices caused by the same discharge indicate the employment of a hard projectile When two orifices are present the orifice of entry will usually be found to be smaller and more depressed than that of exit which latter is usually ragged and everted More than two orifices may be caused by one projectile *e g*, when this has entered the body after traversing a limb or has split up against a sharp ridge of bone into two pieces each finding a separate exit or it may be caused by an intact bullet and a splinter of bone punched off by it *Lyon s Med Jur 1904 pp 120 121*

2 If only a superficial bruise or abrasion be found it is impossible to say positively that a firearm caused it but grooved appearance in the skin and holes in the clothes may give some idea If the missile is found in the body it is conclusive evidence of the nature of wound *Ibid* If the missile is found not in the body but in the room this is a piece of very strong circumstantial evidence to be weighed with the character of wound The aperture of entrance is round only when the bullet strikes point blank or nearly so it it should strike obliquely, the orifice will have more or less of an oval or valverlar form If the projectile traverses a bone the direction of fire may be ascertained from the difference in the margin of wounds of entrance and exit Bone always tends to beval at the point of exit The entrance would show as a single lacerated hole about the diameter of the gun barrel and sorrounded by a zone of blackening or burning if discharged within a short distance *Taylor s Med Jur 1928, Vol I, pp 510 511*

3 With a small crushing force it naturally follows that the lower its velocity and power, the larger the wound because the elasticity of the skin and other tissue has more time and opportunity to come into play with consequent greater tearing It is the same with the aperture in the dress when this is formed of elastic material *Ibid P 512*

4 When an automatic pistol or revolver is fired with the muzzle touching the skin the gases pass into the wound and lacerate the tissue by their expansion This causes the wound of entrance to enlarge than the exit wound *Ibid P 513*

5 The chances of two different bolts making identically the same marks are too remote as to be to all intents and purposes non existent 1936 Pesh 152

Wound—(contd)

C *Direction from which the firearm was fired*

1 A missile fired from a firearm has a tendancy to continue in straight line from the point of entrance to the point of lodgment, or to the wound of exit, so that, if the internal wound be straight, this straight line prove accurately the direction in which the barrel of the weapon was pointed when fired But sometimes it is not not straight, but curved on account of slight obstacles, such as bones, etc The position of the wound of en rance marks the part of the body which was at the moment of discharge nearest to the muzzle of the weapon or rather in a straight line, with the muzzle It therefore indicates with mathematical precision whether the victim was facing the muzzle or with his back or side to it If we can discover two fixed points where a ball has touched a building without being deflected, it will be easy to determine the direction *Taylor s Med Jur 1928 pp 522 523*

2 The deflection of projectiles may occur not merely when they come in contact with bones, but when they meet skin muscles tendons, or membrances A ball which entered at the ankle has been known to make its exit at knee and another entering the shoulder was fourd below the right ear *Ibid P 524*

3. When a shot is fired at a person through pane of glass the person firing must be in the same straight line when it is produced by joining the two points, *viz*, of the window pane and that where the victim was standing, unless it can be shown that the assailant was on horse back *Criminal Investigation by Dr Hans Gross, 1934 Ed, P 291.*

4 Bullet marks or shot holes by their situation, may indicate the position of the assailant at the time the weapon was discharged *Lyon s Med Jur, 1935, P. 237*

D *Distance of the firearm discharged*

1 If the muzzle of the weapon were in direct contact, the skin besides being burnt, is torn, and much lacerated The bleeding is usually slight, and when it occurs it is more commonly observed from the orifice of exit than from that of entrance *Taylor s Med Jur 1928 Vol I P 511, Lyon s Med Jur 1904, P 120, Lyon s Med Jur 1935, P 241*

2 If the distance from which the gun is fired is within 12 inches the wound will, as a rule, be single while beyond this each shot will make a separate wound (*See Casper, I 266*) But it will also depend on the charge size of shot, bore of weapon and whether choke or cylinder *Lyon s Med Jur 1904, P 121*

3 In the case of shot guns the distance from which the weapon was fired may be deduced from the amount of scattering of the charge At about a yard the whole of the charge enters in a mass, producing a round hole about the size of the bore of the weapon with ragged edges and surrounded by a zone of blackening and burning As a rule there is little trace of burning beyond a yard, but traces of powder marks may be found up to four yards or more *Taylor s Med Jur, 1928, Vol I P 516*

4 The shot begins to disperse in an ordinary cylinderical gun at about three yards at which distance the bulk of the shot enters in one mass and leaves a hole with a few isolated shot around it The dispersion gradually increases, and at about five yards an open pattern about ten inches in diameter is found *Ibid, P 516*

5 At ten yards the diameter of spread is about twenty inches at twenty yards about thirty inches and so on With fully choked barrels the dispersion is about half the the above With pistol loaded with shot the dispersion is very much greater *Ibid, P 516*

6 Dispersion varies to a certain extent with different weapons and to a great extent with the nature and quality of the powder and the manner of filling or loading *Ibid, P 516*

7 It is out of the power of a witness to say from the mere fact of a bullet lodging or traversing whether the assasin was far off or near at the time the deceased was wounded *Ibid P 517*

8 A single bullet fir d from four to six yards from the person has been known to produce an extensive wound *Ibid, pp 517 518*

Wound—(contd)

9 A discharge of small shot, in contact with the skin or close to it generally produces not a round opening, but a severe lacerated wound *Ibid, P 518*

10 It is unusual to get marks of burning beyond a yard or a yard and a half with a shot gun, or at more than half a yard with a revolver, *Ibid, P 519*

11 There are but slight signs of burning with automatic pistols even at a few inches for the charge of powder is very light and it is completely exploded *Ibid, P 519*

12 The lighter the projectile the shorter the distance to which it is carried, but when discharged near the body, it may produce penetrating fatal wound *Ibid, P 519*

13 If there are marks of powder or burning and the automatic pistol was not much more than a foot away when fired , if there are no marks it is impossible to tell how far off it was *Ibid, 522*

14 No general rules regarding distance can be laid down Experiments must be done with the weapon and with cartridges (or loading) similar to those which are alleged to have been used *Ibid, P 522*

15 As distance increases the traces of smoke tatooing and burning disperse over an increased area and finally disappear altogether *All may be found up to ranges of* 6 inches and at ranges beyond 3 feet very little if any, trace of powder can be observed Automatic pistols as a rule fire cartridges loaded with less powder than those fired from revolvers and therefore produce less discolouration *Criminal Investigation by Dr Hans Gross Ed 1934, P 424*

16 With professionally loaded cartridges and smokeless powder a single wound occurs up to a range of about one yard but the burning blackening and tatooing is far more intense than ever is to be found with a wound from a rifle revolver or pistol, and the single wound has irregular ragged edges *Ibid* At any range beyond a foot, traces of individual holes made by separate shots are likely to be found A bullet usually takes a straight line between entrance and exit and from this the line of fire can be deduced Shots discharged at short range may produce a wound similar to that made by bullet, because the shot on quitting the barrel remains packed, separating only later to form what is called the cone of dispersion *Ibid, pp 125-426*

17 The distance at which the shot was fired is usually related to the question of premeditation as it is manifest that a shot fired from a considerable distance could not have been fired in the heat of sudden quarrel *Lyon s Med Jur, 1935, P 237.*

18 If the gun is fired at a right angle to the body the burn covers an area cicular in shape and about 6 inches in diameter If the burnt area be oval in shape the indication is that the barrel of the gun was inclined to the surface *Lyon s Med Jur, 1935 P 212*

19 In the case of entry of gas in the wound or of burning of the skin, it is safe to say that the injury *must* have been caused by a shot fired within an inch or *two of* the body *Ibid P 214*

20 A shot of cartridge about No 6 in size fired at a distance of 6 paces is very likely to cause death The accused is guilty under S 307, I P C 10 Cr L J 57=9 C L J 432

E *Kinds of firearms and use*

1 *Guns including rifles*—Guns may be classified from several points of view single, double or more barrelled muzzle or breach loaders rifles or shotgun Shot includes all projectiles in the form of small balls loaded into the barrel not singly but in quantities and not compressed but simply retained by the wad While bullets are cast in moulds shot is obtained by allowing molten lead to fall through a seive, from a sufficient height into the water To render the lead more liquid from ⅓rd to ¼ per cent of arsenic is generally added This detail is important specially when the shot has remained some-time in the body Shot is generally manufactured according to numbers each number indicating a special size They are distinguished by the number of pellets per ounce weight The table on the next page may be accepted as a fair standard

Wound—(contd.)

Table giving the number of shot in one ounce of Newcastle, chilled or soft shot.

Sizes.	SSG	AAA	AA	A	BBB	BB	B	1	2	3	4	5	6	7	8	9	10	12
Pellets ounce	11	40	48	6	64	76	88	104	122	140	172	218	270	340	450	580	850	1250

Criminal Investigation by Dr Hans Gross, Ed 1934, P 273

2 Modern *Airgun* will fire a bullet up to 22 with accuracy up to ranges of at least fifty yards and that serious damages can be done at considerable longer ranges *Ibid, P 276*

3 If a *muzzle loading percussion gun* has been used we must in making search look out for accessories peculiar to this weapon, *e g*, ramrod plug, wads, shot bags powder-horns, and such like which belong to a muzzle loader *Ibid, pp 278 279.*

4 *In Breach loading shot guns* there are three systems of percussion pinfire, rimfire, central fire In pinfire, a pin passes through the cartridge perpendicular to the axis, the hammer falls on the pin, which causes the cap to explode Rimfire is unknown in common use Central fire cartridges are now universally employed *Ibid, P 279*

5 When it becomes necessary to distinguish between shots fired from a muzzle loading rifle and a breach loading rifle, we must remember the way in which muzzle loaders are charged The powder is first poured down the barrel, the mouth of the barrel is then covered with a well greased piece of cloth, called a "patch on which the bullet is placed, pressed down and finally rammed home Hence only certain projectiles can be used A round bullet is almost certain mark of a muzzle loader Marks are also left by the patch, but this happens on the contrary when the bullet fits very tightly *Ibid, pp 280 281*

7 *Pistols* In all pistol shooting the shooter looks at the object aimed at and not at the pistol *Ibid, P 284*

8 *Revolver* A service revolver, firing a 455 calibre soft lead bullet will stop any body if it hits him anywhere Very compact weapons of 38 calibre or less will not seriously disable unless a vital spot is hit Although shots from a revolver or pistol can be effective at long ranges the weapons are ordinarily used only at close quarters There are many varieties of country made revolvers in India from which shots can be fired *Ibid, pp 285 286*

F *Marks on dress and size of shots*

1 It is possible to find large gun shot wounds while the dress covering them is not in the slightest degree injured Dr Bick says that he found a deep wound in the arm with fracture of the humerus without any corresponding hole in either the cloak or tunic *Criminal Investigation by Dr Hans Gross, Ed, 1934, P 429*

2 At very close ranges there may not be much difference in the appearance of wounds caused by shots of various sizes the smaller the shot the more minutely irregular edges are likely to be Small shot will usually lodge in the body, large ones are likely to pass through and to make exit wounds, if fired from close range The shot most commonly responsible for injuries here are of size SG, BB, Nos 4 and 6 *Lyon's Med Jur, pp 244 245*

G *When was the firearm discharged*

1 For a few hours there is a smell of hydrogen sulphide and on chemical examination of fouling, a reaction for sulphides will be obtained for five or six hours Sulphates are found only in traces for the first few days, then they gradually increase. Iron salts in the ferrous state are usually found in traces in the early stages, and gradually become converted into ferric salts *Taylor's Med Jur, 1928, Vol I, P 544*

2 Recently discharged firearms will be found blackened inside the barrel, from the residue left by the gun powder after ignition This residue consists mainly of finely divided carbon and potassium sulphide and yields to water a dark coloured liquid, alkaline in reaction and which after filtration, strikes a black colour with a solution of a bad salt After a time the potassium sulphide becomes oxidised into potassium sulphate Again the weapon alleged to have been used may show signs of recent

Wound—(*contd.*)

fracture, or be bent, or otherwise injured as the result of its use. *Lyon's Med. Jur., 1904, P. 127.*

H. *When was it inflicted.*

1. A gunshot wound undergoes no marked change for an hour or so after its infliction. *Taylor's Med. Jur., 1928, P. 513.*

2. If the wound be something over ten or twelve hours in age, its age must be judged by the amount of swelling, sloughing, suppuration, etc., for it becomes then merely a bruised, probably septic, wound. *Ibid, P. 513.*

I. *Whether dangerous to life.*

1. Gunshot wounds are dangerous to life, *first* from shock ; *secondly* from laceration of a large blood vessel or important viscus, such as heart, brain, liver, etc , and *thirdly*, being contused wounds. the tissues are killed and consequently slough. with danger of hæmorrhage or septicæmia, etc. *Taylor's Med. Jur., 1928, P. 515.*

2. So long as the missile still remains in the body danger exists. *Ibid, P. 515.*

3. Instances of gunshot wounds proving fatal after a year and a day are not infrequent, and they show the inconsistency of limiting the legal responsibility of an assailant by the period at which death takes place, *Ibid, pp. 515-516.*

4. Fatal wounds may be caused by gun powder and wadding alone if fired within about four inches from the body. *Lyon's Med Jur., 1901, P. 121.*

5. A single pellet of shot may cause death by penetrating the aorta or the brain through the eye. *Ibid, P. 121.*

6. The question as to how long did the victim survive can be answered by (*a*) nature of the wound, (*b*) the organ wounded, (*c*) the state of the wound as regards suppuration, gangrene, healing, etc., and (*d*) the amount of blood lost. *Taylor's Med. Jur., 1928, P. 513.*

J. *Whether due to accident, suicide or homicide.*

The evidence to determine this question may be detailed (*a*) from the situation of the wounds ; (*b*) from the design, (*c*) from the proximity of the weapon on discharge ; (*d*) from the position of weapon when found after death ; (*e*) from the direction of the wound, (*f*) from the nature of the projectile, wadding, etc. *Taylor's Med. Jur., 1928, Vol. I, P. 528 to P 542*

K. *Whether one bullet can cause more wounds*

One ball may sometimes produce several wounds on the body and then there will be only one orifice of entrance, but owing to the ball splitting within the body and dividing itself into three or four pieces, there may be several orifices of exit. This splitting of a ball has repeatedly occurred when the projectile in its course has encountered an angular surface, or a projecting ridge of bone *Taylor's Med. Jur., 1928, P. 525.*

L. *Whether shots can be fired from pistol and revolver.*

1. That many strange varieties of country-made revolver exist in India is certain. *Criminal Investigation by Dr. Hans Gross, Ed. 1934, P. 286.*

2. In a recent case a number of eye witnesses testified that the accused had shot the deceased several times with a revolver and made off Four shots were fired and in three of these a round bullet being used and in the fourth small shot. The bullets were weighed and expert evidence was given that they could not have been fired from any known revolver. Indeed 12 bore gun would have been required to take them. On the other side a Police Officer gave evidence that he had seen a country made revolver which he thought might be of sufficient calibre to take such a bullet. The appeal was adjourned by the High Court, and such a weapon was produced. It was a muzzle loads having four short barrells welded together. All four were rotated by hand, bringing a cap under the hammer. The conviction was upheld. (By Madras High Court). At the same time a two-barrelled muzzle loading revolver of larger calibre was found in which the barrels had been bored through one rectangular piece of metal. This case examplifies the danger of accepting dogmatic statements from experts of the layman variety. *Ibid, P. 286.*

Wound—(contd)

3 Naturally when we find shot we suppose it has been fired from a shot gun and when we find a bullet we conclude that it has been fired from a rifle of corresponding calibre and rifling but we must not forget that the fact may be quite otherwise, and above all we must not dismiss legitimate suspicion on the sole ground that the projectile does not fit the gun *Criminal Investigation by Dr Hans Gross, Ed 1934 P 275*

M *Whether self inflicted* See —37

11 How long a person lived after the blow See—12—D

1 In India a great many cases turn upon the question as to how long a person could have lived or what actions could have been performed by him after having received a given wound or wounds *Criminal Investigation by Dr Hans Gross,* 1934 *P* 421

2 Accused thrust his knife into the head of the victim and 4½ inches of blade had penetrated the brain His relatives tried to pull it out but without success He was taken home and then across country to a hospital At midnight after half an hour s hard work the knife was drawn out The man perfectly recovered and gave evidence against the assailant *Ibid P 421*

3 The right pulmonary artery had been severed by a severe stab The deceased was said to have run a distance of 200 yards before he fell dead and it was said that this was impossible after such a wound The Court held that no definite conclusion could be come to in such a case as to how far a man could go *Ibid, pp 421 422*

12 Incised

A *By axe*

Wounds caused by axe are characterised by their great depth They may be long if the weapon does not strike squarely on the surface If it does so the length of the wound, corresponding to that of the blade will be comparatively short If the heal of the axe strikes the surface first it will sink deeper into the tissue than the toe and the corresponding end of the wound will be the deeper The deeper end, therefore indicates the position of the assailant Axe wounds on the head or trunk are very fatal *Lyon s Med Jur 1935, P 179*

B *By knife or dagger*

1 In the case of knife the opening made at the moment of penetration will be lengthened *by the act of withdrawing the weapon They almost, always present the form* of slit having two pointed extremities, so much so that one is tempted to believe that the wound has been inflicted by a *dagger*, an instrument with two cutting edges *Criminal Investigation by Dr Hans Gross, Ed 1934, P 418*

2 When a wound has each end sharp and pointed it must not be concluded that wound has been inflicted by a dagger or other double edged instrument, more frequently the wound has been caused by a knife with a round or square back Frequently the wound is somewhat narrower than the instrument employed The maximum difference between the size of the wound and that of *knife* may be according to Hofmann ⅜ to ¾ inch An error may arise with reference to number of blows struck by the knife, often one might think there have been several, while in reality there has been only one This will occur when the blow has been struck on a part of the body when the skin is folded back on itself, as on the necks of old and thin persons On stretching the skin, one sees several cuts connected together in the form of the letter *Z* or even completely separated one from the other *Ibid P 419*

3 Regarding the direction of blow of knife a medical man can seldom give precise information All the necessary circumstances must be observed *Ibid, P 420*

4 Very sharp knives do not always produce clean cuts They can produce *only slashed* and irregular wounds if its blade instead of being guided in the direction of the wound, is held obliquely thereto *Ibid P 422*

5 The edges of typical incised wound are clean cut When examined with lens they are seen to be perfectly regular *Lyon s Med Jur 1935 P 177*

6 A blunt knife sword or axe causes tearing of tissues and therefore irregular edges. *Ibid.*

Wound—(contd)

C. *Dangerous to life*

1 Incised wounds may prove fatal though there is no trace of hæmorrhage *Criminal Investigation by Dr Hans Gross Ed 1934, P 120*

2. The wound caused by bayonet is seldom perceived as the mark left on body is insignificent The problem is more difficult when the wounded person has turned at the moment of receiving the wound The parts are then twisted when they regain the r previous position the twisting disappears and the different layers of pierced flesh are *super imposed* differently from before, they have been displaced and no onger correspond Each *layer* pierced is closed by an unperforated portion *Ibid P 420*

3 Some knife wounds present a horrible aspect and yet are not mortal or even dangerous A knife was struck into the head of a person and it could not be drawn out by a blacksmith He walked for 45 minutes and went to a doctor who pulled it out with the help of a crow bar He was cured in 15 days Similarly a shoe maker drove 5 nails of about 2 inches each in his head and was cured *Ibid, P 421*

D *How long a person lived after the blow* Sec—11

1 In India a great many cases turn upon the question as to how long a person could have lived or what action could have been performed by him after having received a given wound or wounds *Criminal Investigation by Dr Hans Gross, 1934 P 421*

2. Accused thrust his knife into the head of the victim and 4½ inches of blade had penetrated the brain His relatives tried to pull it out, but without success He was taken home and then across country to a hospital At midnight after half an hour s hard work the knife was drawn out The man perfectly recovered and gave evidence against the assailant *Ibid P 121*

3 The right pulmonary artery had been severed by a severe stab The deceased was said to have run a distance of 200 yards before he fell dead, and it was said that this was impossible after such a wound The Court held that no definite conclusion could be come to in such a case as to how far a man could go *Ibid P 421—422*

E. *Incised wound with blunt weapons*

It is not always possible to decide from the nature of the wound itself what kind of instrument was used, indeed the wound sometimes presents appearance pointing to cutting or stabbing instrument as the cause — (*a*) There are cases where an instrument to all appearance perfectly blunt yet has some sharp or pointed projection, more or less visible such as a fence stake with a nail not very readily observed or a small sharp splinter on a branch of wood (*b*) Instruments really blunt may in certain cases infl ct long wounds with clean cut edges especially on those parts of the body (as the skull) where the skin is stretched tightly over the bone *Hofmann* has laid down that wound caused by cutting instruments are always wedge sharped at the base, while the base of the wound caused by a blunt instrument is crushed or bru sed but the latest surgical authorities declare that it is often difficult and sometimes quite impossible to draw any distinction *Criminal Investigation by Dr Hans Gross Ed 1934 pp 415—116*

F *Kind of weapon used*

In examining an apparently incised wound with the object of ascertaining the kind of weapon, if any, used in producing it, it is important to note (*a*) *Situation* of the wound An apparently incised wound on a part where the skin closely overlies a bone, or sharp ridge of bone may be produced without a weapon or by blunt weapon Blows with the fist over sharp ridges of bone such as chin or orbital ridge or blows with a club on the scalp may produce wounds closely resembl ng incised wounds Wounds caused in this way are generally but not invariably, vertical to the bone *Lyon s Med Jur 1904 I 119* (*b*) *Edges* of the wound Edges should be examined with a lens Sharp clean cut, uninverted edges indicate the use of a sharp edged weapon tearing and inversion indicate the employment of a blunt weapon, or production without a weapon *Ibid P 119* (*c*) *Length and depth* of the wound Long incised wounds indicate the use of a sharp edged weapon and may either be caused by a single blow from one with a long tolerably straight edge, such as a sword or by a drawing cut from one with a short edge, such as a razor In the case of sword the method of production is often indicated

Wound—(*contd*)

by the underlying bones being clean cut through and in the case of razor by the wound tailing off at one end into a superficial scratch *Ibid, P 119* (*d*) Generally the shape of the wound, its dimensions and its situation will afford some information to the nature of weapon used, although it is very difficult for a medical man to distinguish blows by some instrument *Criminal Investigation by Dr Hans Gross, 1934, P. 417* (*e*) It is easy to confound a blow from a hatchet with one from a knife, or a blow from a piece of wood with sharp angular sides with that made by a sword *Ibid, P 417.* (*f*) The wounded person should be placed in the same position in which the blow was given and whole scene must be reconstituted in the mind and its possibility verified *Ibid, P 417* (*g*) It is of very little use to compare with any instrument wounds which are in their swollen or cicatrised condition The process of healing which commences from the moment the wound has been inflicted, rapidly transforms the wound and it is hardly possible to recognise the primitive form *Ibid, P 418* (*h*) The wound lengthens out when it runs along the muscle, on the contrary, when it runs across the muscle it contracts *Ibid, P 418.*

G *Weapons*

1 *Axe or hatchet* usually produces comparatively short incised wounds, either deep or accompanied by indentation and extensive fractures of the bones beneath. Cutting instruments with a concave edge and projecting point often cause linear wounds resembling a punctured wound at one end and gradually decreasing in depth towards the other end If the wound has been inflicted on curved surface, the puncture caused by the point, and the incised wounds caused by the edge may be separated by an unwounded portion of the skin Weapons which produce incised wounds are (1) short edged light weapons such as razor and knife (2) heavy short edged weapons of the hatchet class such as axe *kulhari gairasi gandasa tarsh* and sacrificial knife (*khande*) Weapons allied to this class are the bor spade (*phaora* or *kudali*) and the Gurkha *kukri khurpa* or gross cutter s knife also belong to the spade class (3) Long edged weapons represented by the curved swords (*talwar*) or the straight sword (*kirich*) and curved edge weapons with a concave edge and projecting point such as the (*dao kotta*) and the sickle (*haswa, daranti* or *ela*) *Lyon s Med Jur 1904 P 119, Lyon s Med Jur 1935 P 175*

2 Wounds inflicted by axes or axe heads with convex edges on longshafts, are often, especially if well aimed straight and clean cuts *Criminal Investigation by Dr Hans Gross, 1934 P 418*

3 Wounds caused by broken glass (which frequently occur in tavern brawls) are arched and somewhat shell shaped like the broken outline of the glass itself Straight cuts due to broken glass are rarely observed *Ibid P 417*

4 Wounds inflicted by sickles and scythes never show a straight line but a broken zig zag line This is because they are never sharpened like knives *Ibid P 417*

5 In wounds caused by cutting instruments the form of wound rarely corresponds to the true form of weapon *Ibid P 418*

H *Warding off blows by victim*

1 Injuries are seen on the inner side of the forearms and on the hands Those are received during the victim s attempt to ward off the blows or to grasp the weapon Such injuries form conclusive proof of homicide *Lyon s Med Jur, 1935 P. 177*

2 A man in attempting to ward off a blow directed at his head throws up his arms above his head and the inner side of forearm is uppermost and injured *Ibid,* P 177

13 Indirectly fatal. *See* Culpable homicide—21—13—19—8—36

Wounds which cause death indirectly it is assumed that the deceased survives for a certain period and that the wound is followed by inflamation septicæmia, toxæmia tetanus or some other mortal disease which is a consequence of the injury Under this head may be also arranged all those cases which prove fatal by reason of surgical operations rendered imperatively necessary for the treatment of injuries A wounded person may have been the subject of subsequent unskilful treatment and the question will arise to which of the two causes his death was really due It is to be observed in such cases that the supervening disease, the poison, or the subsequent ill treatment, should be of such a nature as to account for sudden or rapid death *Taylor s Med Jur, 1928, Vol I, P 326*

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Wound—(contd)

14 Lacerated—

A lacerated wound is one in which the tissues have been torn apart, not cleanly cut Such wounds result from assaults with blunt weapons, from falls, machinery and traffic accidents, attacks by animals, etc They are frequently accompanied by bruising, and there may be much loss of tissue Lacerated wounds caused by blunt weapons or by falls are invariably situated on regions where unyielding bone closely under lies the surface *Lyon s Med Jur, 1935, P 183*

15 Negligent or unskilful treatment of— *See* Culpable homicide—35 Murder—82 Death by negligence—7

1 No conviction for murder can take place if the medical evidence showed that the injury was not originally mortal, but became so through unskilful or negligent treatment If death has been caused by a wound, it is immaterial that in more favourable circumstances, and with more skilful treatment, a fatal result might have been averted *Taylor s Med Jur., 1928, pp 99 100*

2. The true distinction is that if the death is occasioned by grossly erroneous medical treatment, the original author of the violence will not be answerable, but if it arises from the want of merely of that higher degree of skill which is available only in big towns the perpetrator of the unlawful act will be responsible, because he has wilfully exposed the deceased to a risk from which he has practically no means of escaping If the wound had not been likely to produce death, but through un skilful treatment, death ensued, that would not be murder Where owing to obvious mal treatment of the original wound, an operation became necessary, and resulted fatally, the assailant would probably not be guilty of murder. *Ibid*

16 No external marks —Dangerous wound—Surviving—

If the blow has caused rupture of the internal organ, it is almost fatal Yet the wound ed person may live for sometime , for example, with a rupture of the liver, skull, intestine from five to eleven days with a fracture of the base of the skull three to twelve days with a rapture of the intestine ten hours When considerable force is exerted, as in the case of a fall from a height, crushing under a heavy weight, etc, serious internal injuries may be caused without slightest external mark Even when there is no internal rupture, death may follow from shock *Criminal Investigation by Dr Hans Gross, 1934 Ed , P 416*

17 Of the neck and throat *See* Strangulation

1 *Abrasions* —Marks left by ligature used in hanging or in strangling are in effect abrasions caused by the destruction of epidermis Small abrasions are seen in case of throttling, the finger nails sinking into the skin have typical crescent shaped marks Strangulation is sometimes accomplished by compressing the throat with some hard substance *e g*, billet of wood in such cases abrasions will be formed on the front of the throat *Lyon s Med Jur, 1935, P 201*

2 *Bruises* —The pressure of any hard object on the throat will cause bruising The murderer always uses more force than is necessary for the accomplishment of his purpose, thereby leaving traces of his work *Ibid, P 204*

3 *Incised wounds* —Incised wounds made with the edge of weapon of the knife or razor type are very common But those caused with heavy striking weapons are on the back of neck They are very fatal injuries owing to the close proximity of the spinal cord to the surface *Ibid, P 204*

4 *Stab wounds* —Stab wounds on throat or neck are not uncommon Their chief danger is hæmorrhage following on injury to the blood vessels and death is due to it Wounds of the large vessels are not necessarily rapidly fatal *Ibid P 20?*

5 *Lacerations* —Laceration of the structures of the neck is not uncommon in hanging with a drop, and may be extreme, all tissues of the neck being ruptured *Ibid P 205*

18 Of the scalp and brain

1 Wounds of the scalp are alway serious, no matter how they are produced, for they are inevitably septic when inflicted If the division of tissues has penetrated below the dense layer of the skin of the scalp, it is practically impossible to be at all sure of being able to cleanse them *Taylor s Med Jur , 1928, P 422, Lyon s Med Jur, 1935, P 190*

Wound—(*contd*)

2. If suppuration ensues, these wounds are liable to give rise to fatal complications owing to the ease with which the septic miscrobes can reach the brain There is a further reason for considering scalp wounds dangerous in that it is difficult to be sure whether the skull or brain has not at the same time been damaged *Ibid, P. 422*

3. Injuries produced by blows from blunt instruments frequently bear a close superficial resemblance to cut wounds It is advisible, in all scalp wounds, to shave the scalp closely and examine the edges and terminations of the wound with special care and to closely examine the deeper parts of the injuries to see if the tissues are cut or torn, and to observe the presence of foreign bodies, such as fragments of glass, rock, earth, etc *Ibid, P 423*

19 Of the head, *vs* alcoholic intoxication

1. There is nothing in the state of the brain in a dead body which will enable a practitioner to say whether shock or intoxication had existed and had been the cause of the symptoms which ended fatally *Taylor's Med Jur, 1928, P 425.*

2. The discovery of alcoholic liquid in the stomach or the presence of alcohol in the blood or urine might lead to presumption that the deceased had been drunk, and marks of violence on the skull or in the brain might prove that he had been injured but it does not prove whether alcohol or injury was the primary and sole cause of death The following are the tests —(*a*) The history of the case should be obtained (*b*) The smell of the breath should be noted Drink does not prevent but renders easy injury to the head and again it is almost invariable to find that brandy is poured into the mouth of a man found insensible (*c*) The pupils should be noted If they are dilated, alcohol may be more suspected, if contracted opium poisoning may be the more suspected, if unequal, they rouse a strong suspicion of serious head injury, and if inactive to light the case is serious (*d*) Note the temperature If raised, this suggests head injury and possibly of hæmorrhage into the brain, if lowered, this in itself has not signified danger (*e*) Local paralysis as opposed to general helplessness suggests local lesion, and therefore strongly suggests serious injury and not intoxication (*f*) The urine should be examined (*g*) Note the general condition of the skin flushed and sweating, probably drunk, cold and blue, collapse of a dangerous description, cold and sweating suggests opium poisoning *Taylor's Med Jur, 1928, 8th Ed, pp 425 & 426*

20 Of the face

Wounds of the face are usually followed by great deformity, and when they penetrate the cavities in which the organs of the senses are situated, they often prove fatal either by involving the brain and its membranes or by giving rise to inflamation of this organ *Taylor's Med Jur, 1928, P 442*

21 Of the nose

Wounds of the nose are, generally speaking, of a simple nature, rarely giving rise to serious symptoms If the injury is a contusion and, at the same time, extensive a loss of the sense of smell will probably result A penetrating wound of the nose, produced by passing a sharp pointed instrument up the nostrils, may destroy life by perforating the cribriform place of the ethmoid bone and injure the brain Such a wound might be produced without leaving any external marks of injury *Taylor's Med Jur, 1928 P 442*

22 Of the chest

Incised wounds of the chest walls which do not penetrate the cavity are rarely followed by dangerous consequences The bleeding is not considerable, and is generally arrested without much difficulty Fracture of the ribs are dangerous for several reasons —The bones may be splintered and driven inwards, thereby wounding the lung hæmorrhage Simple fracture of the chest bone without displacement of the bone is rarely attended with danger, unless the concussion has at the same time produced mischief internally When the bone is depressed as well as fractured the viscera behind may be mortally injured Wounds penetrating into the cavity of the chest are generally dangerous, even one slight inconsequence of the innumerous accidents with which they are liable to be complicated *Taylor's Med Jur, 1928 P 446*

23 Of the lungs

The immediate cause of danger from wounds of the organs is the consequent h

Wound—(contd)

which is profuse in proportion to the size of the wound and the size of the vessels wounded Should the weapon divide any of the trunks or the main branches of the pulmonary vessels the individual may speedily die The degree of hæmorrhage cannot be determined by the quantity of blood which escapes from the wound A wound of the lung is generally known, among other symptoms by the frothiness and florid colour of the blood which issues from the orifice .There may be no external marks of violence or symptoms indicative of danger for some hours A young man while riding fell from his horse on his left arm He complained of no pain for five hours but in 12 hours he bled profusely from the mouth and died in a few days There were no external marks of the injury to the chest but the right lung was found ruptured throughout its length A boy aged 14 fell from the height of 20 feet and died within 3 hours There was no external marks of injury but collar bone was fractured and right lung was ruptured to depth of 4 inches into its substance from this rupture a large quantity of blood has escaped causing death *Taylor s Med Jur , 1928, P. 447*

24 Of the heart

1 Wounds of the heart are among most fatal of penetrating wounds of the chest It was frequently considered that all wounds of the heart were necessarily and instantly mortal, a view which must now be considerably modified The presence of weapon in the wound, by mechanically obstructing the effusion of blood, retards the fatal result *Taylor s Med Jur , 1928, P 448*

2 If the right cavities of the heart are more frequently wounded than the left of these the right ventricle is most commonly the seat of injury The heart is liable to be ruptured either from disease or accident In the latter case the organ generally gives way towards the base, and through one of its cavities from the right side In ruptures from the natural causes it is the left side of the heart, and particularly the left ventricle in which rupture is most frequently found Symptoms are sudden pain, collpses, cramps cold extremities, and rapid death *Ibid, P 449*

3, Rupture of the heart from blows or falls is not always accompanied by marks of external violence, or any fracture or other injury to the exterior of the chest The natural causes of rupture of the heart are violent mental emotions such as anger, fright terror, sudden or excessive muscular efforts or violent physical exertions in constrained positions The heart like any other muscle, may give way from its own powerful contractions It is of importance to note that rupture of the heart may prove suddenly and rapidly fatal to life although the lesion may not involve the cavities When the heart is in a diseased condition as in fatty degeneration, slight causes of excitement or exertion are sufficient to produce rupture and sudden death Walking may thus give rise to fatal consequence *P 450*

4 When air gains access to the blood through a wound in a vein death is produced by the churning up of air and blood in the heart the resultant mixture causing asphyxia *Taylor s Med Jur , 1928, P 452*

5 Death may take place from shock A person stabbed to the heart or shot through the heart may still be capable of considerable muscular effort, such for instance as running a hundred yards or more A person might be quite capable, not perhaps of giving any detailed account of the occurrence but of calling out that he had been stabbed by a particular individual *Lyon s Med Jur , 1935, pp 206 207*

6 The heart may be lacerated by the jagged ends of fractured ribs or by a broken sternum It may be shattered by severe compression of the chest or by a gunshot discharged at close range *Ibid, P 208*

7 Spontaneous rupture of the heart is of rare occurrence *Ibid*

25 Of the abdomen

A *Concerning the walls of the abdomen*

1 Incised and punctured wounds which affect the walls of the abdomen without penetrating the cavity, offer no special dangers over and above their proximity to the peritoneum and the dangers of extension of inflamation thereto

2 Penetrating wounds are not always fatal A very large number of gunshot wounds have apparently done no damage to the viscera

3. A soldier by accident so fell up on his bayonet that although the weapon traversed

Wound—(*contd*)

the whole cavity of the abdomen (entering at the back and coming out in front below the navel), the man recovered in about six weeks *Taylor's Med Jur*, *1928, P 454.*

4 The contusions on the cavity of the abdomen are attended generally with far more serious affects than those on the chest due to covering of the abdomen having less power to resist external shock Death may be the immediate result of a blow in the upper and central portions and no particular morbid changes may be apparent on inspection Death may be ascribed to fatal shock *P 455*

5 Blows on the abdomen when they do not destroy life by shock, may cause death by inducing peritonitis, which may extend to other membranes *Ibid, P 456*

6 Blows on the abdomen are not always accompanied by visible bruise or injury to the skin, and indeed it must be remarked that when such a bruising is found without injury to the skin it may possibly have been produced by violent muscular action as in trying to escape a blow and not by blow itself *Ibid, P 457*

B *Rupture of the Liver*

1 Ruptures of the liver may occur from falls or blows or by sudden action of the abdomen muscles *Taylor's Med Jur 1928, P 457* An accident of this kind happened to a person who was endeavouring to avoid a fall from his horse *Ibid* A fall on the feet from an elevated spot may also produce laceration of the liver Ruptures of the liver, if fatal, generally cause death within 48 hours In a case in which the liver was found adhering to the floating ribs, a fatal rupture was caused as a result of violent muscular action *Ibid pp 457 458*

2 Considerable power of locomotion may remain after receipt of injury *Lyon's Med Jur, 1935, P 210*

C *Abrasions*

Abrasions on the abdominal wall are the result of traffic *Lyon's Med Jur, 1935, P 208*

D *Bruises*

Bruises on the abdominal wall are uncommon The severest injury may be sustained by one or more of these organs without the abdominal wall showing any trace of bruising *Ibid, P 208*

E A *stab wound* of the abdomen may be considerably deeper when measured at the *post mortem* table than when it was at the moment of infliction The hand clasping the knife pushes the belly wall inward to a distance of two or more inches *Ibid, P 209*

F A *blow* over the abdomen may kill almost immediately or after a short interval, without causing any visible injury In these cases death *is due to syncope from reflex* paralysis of the heart *Ibid P 209*

26 Of bladder.

Rupture of the bladder is frequently the result of blows *on the lower part of the* abdomen The usual period at which the death occurres from this accident is from three to seven days The case of death is usually peritonitis but a person may die suddenly from this injury as a result of shock When ruptures are produced by blows they are rarely accompanied by marks of ecchymosis or of injury to the skin A rupture is almost always the result of violence directly applied to the part A *spontaneous rupture* may occur (*a*) When there is "distention with overflow from disease (*b*) When the bladder is ulcerated or otherwise diseased (*c*) When there is an obstruction in the urethra from stricture (*d*) From some undressable cause. Owing to the short and simple nature of the *female urethra the rupture of the* female bladder by violence *in the ordinary* way is very rare *Taylor's Med Jur*, *1928, pp 463—465.*

27 Of the stomach

Wounds and ruptures of the *stomach* may cause death by shock Rupture commonly gives rise to severe pain, sufficient in itself to bring about speedy death A stomach may be ruptured from spontaneous causes as in ulceration from disease Penetrating wounds of the stomach generally prove rapidly mortal *Taylor's Med Jur.*, *1928, P 463*

Wound—(*contd*)

28 Of the genital organs—(male organ—vulva)—

1 Wounds of the genital organs whether in the male or female may prove fatal to life by excessive hæmorrhage The practice of circumcision on infants is sometimes followed by fatal results Owing to the proximity of the pubic bones blunt violence may produce an apparently incised wound *Ibid, P 466* When deeply incised wounds are inflicted upon the genital organs of either sex the fact of their existence in such a situation is strongly presumptive of wilful and deliberate malice on the part of an assailant, or deliberate suicide Kicks or *blows on the vulva if they destroy life at* all cause death by copious effusion of blood Violence to this part after death would not produce such an effusion as would account for death *Taylor s Med Jur 1928 pp 466 467*

2 Severe contusion on the male organ may cause death Severe compression of the testicles may prove fatal from shock *Lyon s Med Jur 1935, P 217*

3 Incised or contused wounds on the female genitals may prove fatal by loss of blood *Ibid, P 217*

4 A kick on the vulva—like a blow on the head—may cause an apparently incised wound and prove fatal from hæmorrhage *Ibid, P 217*

5 Wounds of the female genitals are sometimes the result of an accidental fall on some *projecting sharp or pointed object In India cases of injury by thrusting a stick* into the vagina are not uncommon *Ibid P 218*

29 Of the brain *See*—18

30 Position of assailant *See*—4

31 Punctured

1 A punctured wound is one in which the depth is greater in *proportion to the length* *Taylor s Med Jur, 1928, Vol I P 318*

2 Punctured wounds may be caused accidently by projecting nails fragments of crockery etc If the edges of the puncture are free from laceration or contusion the indication is that a sharp pointed weapon has been employed The obliquity or directness of the thrust, and also the state of tension or relaxation of the skin may affect the shape of the puncture and hence two punctures *from the same weapon* may differ in shape Very often owing to the elasticity of the skin punctured wound is of less diameter than the weapon which has been used The existence of several punctured wounds of course very strongly indicates the employment of a weapon and if all are similar in size and shape the probabilities are in favour of their being due to repeated thrusts with the same weapon Weapons commonly used are daggers spears arrows sickle pickaxe hoefork etc *Lyon s Med Jur 1904 pp 123 124 Lyon s Med Jur, 1935, pp 180 181*

3 If it be asserted that a punctured wound was produced by a fall on some sharp body such as glass pot sharp stone etc it is almost impossible for the wound to be of great depth without a part at least of the material being found broken off in the wound *Taylor s Med Jur 1928, Vol I, P 355*

32 Rupture of intestime

Rupture of intestine is usually fatal, the cause of death being peritonitis Rupture may occur solely from disease or from violence Rupture even of a healthy portion of intestine may occur from a comparatively slight amount of violence *Ibid* Accidental cases are due to traffic accidents kicks from horses falls etc In cases of assault a blunt weapon or a blow with the fist or a kick may have been employed *Lyon s Med Jur, 1935, P 215*

33 Rupture of liver *See* 27—B

34 Ruptures of the spleen *See* Spleen—4

35 Scars

A *Time required for the formation of scars*

It varies according to the nature size cleanliness etc of the wound (*a*) *In clean incised* wounds the edges are firmly united in about five or six days and a definite reddish scar is formed in something like a fortnight (*b*) In wounds which are suppurted (sceptic) the time is from a week to two or three months according to the size

of the wound and treatment applied (c) In small wounds on fingers etc a scab forms in about thirty six to forty eight hours and if on removal of this some granulation tissue be found or attempts at scarring, it may safely be said that the wound was inflicted at least four or five days previously (d) In larger ragged wounds involving many structures no appreciable amount of granulation tissue will be formed under a week and no real scar for at least two or three weeks (e) The age and health of the wounded person have material influence even on these averages *Taylor s Med Jur 1928, P 134 Lyon s Med Jur, 1935 pp 101—103*

B *Age of scar*

A scar consists of fibrous tissues and blood capillaries and the contraction of former tends to obliterate many of the latter When first formed a cicatrix looks red or bluish and angry, and is tender As its age increases it becomes smaller, whiter, thicker, more shining and less sensitive In about two months or so a scar acquires those permanent characters by which its individuality will be known during the life of its bearer Some scars get red shiny and angry looking after 35 years when local irritation is applied When once a scar has become firm and white there are no data of a medical nature which will enable us to say when the wound producing it was inflicted, whether two ten or twenty years before *Ibid*

C *Relationships of shape and size of the scar and the wound*

There is a broad general likeness between a wound and its scar A straight simple incised wound will have a straight linear cicatrix as a rule If the incision was of some length so that the skin gaped or if the wound suppurated the cicatrix will probably be wider and thicker in the middle than at the ends Wounds of irregular shape and contused wounds commonly leave irregular scars If there has been definite loss of substance in a wound from sloughing the scar will be in some measure proportionately thick *Burns and scalds* are generally large and very irregular often showing keloid patches or lines *Surgical operations* These are commonly indicated by their regular form and situation the marks of stitches which held them in position can also be usually made out *Tubercular and syphilitic scars* are generally much depressed irregular and thick in parts *Ulcer* is for medico legal purposes an unhealed wound though the word is used in surgery rather to express the result of disease than those of an aseptic wound *Vaccination and small pox scars* have an irregular honey combed appearance with white streaks and are slightly depressed below the level of the surrounding skin *Punctured wounds*—stabs bullets etc generally leave puckered cicatrices from which it is generally impossible to give evidence as to the nature of weapon inflicting them It may be asserted that they are usually smaller than the weapon *Scars in children*—The large scars on chests or limbs grow in size with the growth of child so that approximately the same proportion of circumference is still involved when the child becomes an adult *Taylor s Med Jur, 1928 pp 135 136 Lyon s Med Jur 1935 P 105*

D *Removal or alteration of scar by time*

No scar can be removed by cutting or excision without leaving another behind It is quite possible that a criminal or designing person may get rid of an inconvenient scar by substituting another one for it Scars of wounds involving a definite loss of tissue are permanent and indelible and last through life with but little change, but scars of small wounds become indistinct If no marks of cutting can be perceived within a few months of the period at which a severe wound is alleged to have been inflicted it is reasonable to infer that there has been some mistake or that the circumstances have been greatly exaggerated *Taylor s Med Jur, 1928 pp 136 137*

36 Scratches

Scratches are very important especially when they arise from resistance of the victim to an attack Nails of scratcher must be examined to see if there is any relation between the nails and the scratches observed The dirt under the nails often affords strong evidence and should be examined by a specialist *Criminal Investigation by Dr Hans Gross 1934 Ed 1 422*

7. Self inflicted—.

Bruises or contusions

As regards bruises inflicted by another with a view to substantiating a false story, it may be impossible to distinguish these from genuine injuries These contusions are the result of the use of stick, and their usual position is on the back They are practically always single, and are such as would not require the use of much force for their production Their direction may be quite irreconcilable with the complainant's version of their infliction. *Lyon's Med Jur, 1935, P. 239.*

Gunshot

1 The most convenient site for a self inflicted gunshot wound is the temple of the same side as the hand used in shooting. Less commonly the heart region is selected. If the weapon is a long one, such as gun or rifle, the muzzle may be placed in the mouth or under the chin Wounds situated elsewhere, if accident can be excluded, are homicidal. In cases of accidental discharge of the firearm, the wound will be for the front of the body, and will often be from below upwards. Blackening of the hand with unconsumed powder is a proof of suicide or of accident. *Lyon's Med. Jur., 1935, P. 234*

2. Self inflicted gunshot wounds will be found to involve non vital parts, except in cases of attempted suicide They will be near wounds. The skin will be more or less lacerated and bruised. There will be much ecchymosis and the hand holding the weapon, as well as the dress and the wounded skin may be blackened or burnt by the exploded gun powder. *Taylor's Med. Jur, 1928 P. 544*

Incised.

1. In the case of incised wounds if these are slight or if severe they tail off at one end into a superficial scratch, and are in the accessible position on the left side in the case of light handed man, the presumption is in favour of self infliction. In suicidal cases, in about four-fifths of the cases the head is chosen for injury. *Lyon's Med. Jur., 1904 pp. 155—157, Lyon's Med. Jur, 1935, P. 238.*

2 Where several incised wounds are accompanied by cuts on the hands of the injured individual, and in female subjects, in cases of wounds of the genitals or castration or mutilating wounds of the nose, ears, or breast, the presumption is in favour of infliction by another person *Ibid.*

3. Self inflicted incised wounds, as a rule (*a*) end on the same side as the hand employed, and (*b*) begin from below if on the lower part, or from above if on the upper part of the body *Ibid*

4. Self-inflicted incised wounds of the throat, as a rule possess the first of these characteristics, but may or may not possess the second, *i. e*, they may be transverse, or run from above down or from below up. *Ibid*

5. Self inflicted several incised wounds all slight are sometimes self inflicted, with the object of averting suspicion. *Ibid*

6 Want of correspondence in situation between cuts on the clothes and wounds on the body is often found when the wounds have been self inflicted for the purpose of supporting a false charge or averting suspicion. *Lyon's Med Jur, 1904 P. 160*

7. When the weapon used is found tightly grasped in the hand of the dead body, it indicates self infliction A weapon, however, found loosely lying in the hand of dead body, may have been placed there, with the view of fabricating evidence in favour of suicide. *Ibid.*

8. Imputed wounds except in cases of attempted suicide are (*a*) of superficial character, (*b*) are in front of the person and may be on the right or left side according to whether person is right or left handed, (*c*) they are generally numerous and sometimes they have had a complete parallelism, unlike those caused by adversary, (*d*) the hands are seldom wounded, (*e*) the injuries are not usually situated over those parts of the body in which wounds are by common repute considered mortal, (*f*) the cuts on the dress are not reconcible with the articles of dress having been worn when they were produced, (*g*) there is in general an entire want of correspondence between the situation of the wounds on the person and cuts or other marks on the dress. *Taylor's Med. Jur, 1928 P 474, Vol. I.*

Wound—(contd.)

9. No hard and fast rules can be laid down for the detection of self-inflicted wounds. Each case must be decided by the facts which accompany it. However the following facts must be ascertained. (*a*) The relative positions of the assailant and the assailed person at the time of the alleged attack. (*b*) The situation, direction and depth of the wound or wounds (*c*) The situation or direction of marks of blood or wounds on the person or dress of either, or of both the assailant and assailed. (*d*) The marks of blood and the quantity effused at the spot where the struggle is alleged to have taken place. *Taylor's Med. Jur., 1928, Vol I, P. 475.*

10. Imputed wounds are generally cuts or stabs. They are seldom of the contused kind. Some cases in which females labouring under hystirical attacks, have inflicted upon themselves, severe contusions and have charged innocent persons with attempt to murder are on record. *Taylor's Med Jur., 1928, P. 476, Vol. I.*

11. The question whether a wound is self inflicted may be answered by, (1) the *nature* or *appearance* of the wound, (2) the *position* of the wound, (3) the *direction* of the wound, (4) the *number* of wounds or injuries, (5) the *position* and *surroundings* of the injured idividual. *Lyon's Med. Jur, 1935, P. 227.*

12. Blood stains on the back of the hand, thumb and first finger, point to self destruction A cut in the clothing corresponding in position to that on the body is almost proof of murder. *Ibid, P. 232.*

13. A fabricator will be careful to avoid doing himself any serious harm, he will not wound those regions of the body that he considers are dangerous *Ibid, P. 238.*

14. Wounds on the face or genital organs are never the work of the fabricator. *Ibid, P 238.*

15. In case of suspected fabrication of wound, clothing must be examined. The individual will always bare a part before wounding it, in order to see what he is about. He may then forget to make cuts in the clothing. *Ibid, P. 238.*

D *Inflicted with consent.*

In India severe, even fatal, injuries are sometimes inflicted on an individual with his consent, for the purpose of supporting a false charge against some other person. *Lyon's Med Jur, 1935, P. 220, P. 138 Lyon's Med Jur. 1904, P. 153.*

E. *Punctured.*

Punctured wounds except of very slight depth are not self inflicted *Lyon's Med. Jur, 1935, P. 238.*

38. Shock—Death from.

Shock is sometimes direct cause of death, under the infliction of external violence, and in this case life is destroyed without the injury being sufficient to account for a result so speedily fatal. A person may have received *many injuries*, as by blows or stripes, not one of which taken alone, could in medical language be turned mortal, and yet he may die directly from the effect of violence either on the spot or very soon afterwards.. There is also a mental form of shock, like, fainting from fright or from some unpleasant sight or smell *Taylor's Med Jur, 1928, Vol. I, pp 330—332.*

39 Whether caused before or after death?

1. If a wound has been inflicted before death, some or all of the following signs will be observed —(*a*) Hæmorrhage. (*b*) Retraction of edges of wound (*c*) Signs of inflamation (*d*) Signs of repair. *Taylor's Med. Jur, 1928, P. 367*

2 Contusions inflicted during life, if severe, are generally but not variably, followed by ecchymosis If the individual has lived for sometime, say more than twenty four hours after receiving the injury, changes in colour will probably be found at the circumference of ecchymosed patch, from purple to black, violet green to yellow. Thus the purplish black becomes by third day violet, by the fifth day green and by eighth to tenth day yellow and the injured part will probably be found swollen. An injury inflicted after death, while the blood is still fluid, may be followed by effusion of blood Blood effused from a wound made more than ten minutes after death rarely coagulates... Much hæmorrhage also indicates *ante mortem* infliction *Lyon's Med Jur., 1904, pp 128 129.*

Wound—(contd.)

3 When a wound is inflamed in a state of suppuration or cicatrization, it must have been produced before death. If it is inflicted, in the last moments of life, its edges are more or less retracted and tumid, it is covered with a clot of blood. When a wound is made some hours after death its lips are retracted as if inflicted during life, but they are pale, not tumefied, without any trace of blood. *Ryan's Med. Jur., 1836, P. 340.*

4. *Ante mortem* injuries are distinguished from *post-mortem* injuries by the presence of *signs indicative of vital reaction.* These are —(*a*) *Bruising.* Contusions may appear even if an individual has lived only a short time after receipt of the injury, and bruising from blows inflicted during life may not become apparent until after death has taken place. If the individual lived more than twenty four hours after the injury, changes in colour will be found at the circumference of the ecchymosed patch. (*b*) *Effusion of blood.* In a dead body the blood remains fluid for some time after death, rarely beginning to coagulate until four hours, and sometimes not until twelve hours, after death. Hence an injury inflicted after death, while the blood is still fluid, may be followed by effusion of blood. Blood effused from a wound made after death rarely coagulates. Marks of arterial spouting indicate infliction while the heart is beating. Much hæmorrhage also indicates *ante mortem* infliction. *Post mortem* infliction is indicated if the effused blood is found fluid. (*c*) *Reaction and eversion* of the edges of wound follow the infliction of an incised wound made during life or shortly after death. Hence in *incised wounds,* indication of infliction during life or shortly after death, are (1) retraction and eversion of the edges of the wound, (2) hæmorrhage into the wound and into the cellular tissue around it, and (3) presence of coagula. (*d*) One of the most reliable signs of *ante mortem* infliction, is the *staining of the wound* by blood that has been forced into tissue interspaces by the active bleeding of life. This blood clots in position, and the stains produced by it cannot be removed even by washing the wound, while any blood stains due to *post mortem* bleeding are easily removed with a damp rag, leaving the tissues unstained. *Lyon's Med. Jur., 1935, pp, 186 187-188.*

40. Whether dangerous to life?

1 The danger primarily depends on (*a*) the amount of hæmorrhage, (*b*) the organ wounded whether liver, brain, heart, lungs, etc. (*c*) shock; and *secondarily on the chance* of (*d*) secondary hæmorrhage following sepsis (*e*), *specific infection, e g,* tetanus, gas gangrene; or *more remotely* (*f*) the effects of scarring. As a general principle, the Court is likely to consider as dangerous to life in a legal sense only those wounds in which the danger is imminent and not remote. *Taylor's Med Jur, 1928, P 323, Vol I, Lyon's Med. Jur., 1901, P 175.*

2. The majority of medical jurists agree, that penetrating wounds of great cavities, or in other words of the brain, heart, lungs, and digestive organs are always doubtful and often dangerous to life. *Ryan's Med. Jur., 1936, P. 327.*

3. Some injuries causing death may be called conditionally mortal injuries, *i. e,* such as cause death owing to either, (*a*) Disease or infirmity under which the injured individual labours *e g*, an enlarged spleen; or (*b*) the supervention of disease, *e. g*, tetanus, septicaemia, erysipelas; or (*c*) want of resort to proper remedies or treatment as when death occurs owing to loss of blood from a wounded artery of moderate size, others may be called mortal injuries or injuries intrinsically sufficient to cause death, irrespective of the existence of any conditions such as those mentioned above. *Lyons' Med Jur, 1904, pp 175 176*

41. Whether one weapon can cause different kinds of wounds. *See*—14—E.

A heavy weapon of the bill hook class may, for example produce all four varieties (incised, contused, punctured and internal injury). Hence the existence on the body of the same individual of wounds belonging to two or more of these four classes, does not necessarily indicate that two or more weapons were employed, or that more than one person was concerned in their infliction. *Lyon's Med Jur, 1935, P. 185. Lyon's Med. Jur, 1901, P 124*

42. Warding off blows by victim *See* 14—H.

WRITTEN STATEMENT *See* Examination of accused—31

WRONGFUL CONFINEMNET S 342 to S 348 I P C

1 Abetment

It would be no defence against the charge under Ss 342—114 for the accused to say that he was not present at the actual arrest if in fact he was instrumental in getting the arrest made and if after it was made he instigated the bailiff to wrongfully confine a debtor in spite of protection order in his favour 76 I C 234=1924 M 31=25 Cr L J 138

2 Arrest

1 Where the arrest is legal the Police Officer is not guilty under S 342 10 B 506

2. The accused, a Police Officer came down to Bombay to arrest a person and after due inquiries arrested a person in good faith which turned out to be a wrong man Held, he was protected under S 76 and was not guilty under S 342 26 Bom L R 138=1924 B 333=81 I C 317=25 Cr L J 797

3. Submission by the complainant to arrest does not detract from the accused s act or diminish its legal effect 1929 C 730=33 C W N 751 2 M H C 395

4 A Sub Inspector conducting an investigation is within law when he sends for a person to the Police Station who can in his opinion give information about a crime The constable and *chaukidar* who brought the complainant to Police Station and asked him to sit down till Sub Inspector saw him committed no offence 7 O W N 957=1930 O 505.

5 The applicant was convicted under S 244 and the Sessions Judge in appeal found that he was not in lawful custody and acquitted him Held that constable was guilty under S 342 1923 A 34=85 I C 44=26 Cr L J 428

6 Under an order of the Commissioner of Police which was published in the Calcutta Police Gazette the Deputy Commissioner made an order for the confinement of a Head Constable It was afterwards discovered that order published in the Gazette was not granted leave under S c Calcutta Police Act The Head Constable prosecuted the Deputy Commissioner under S 342 Held that the accused was not guilty 47 C. 818

7 Two Head Constables arrested a person who was drunk and created a disturbance in a street They took him to Police Station and confined him there although one of them knew his name and address Held, they were not guilty under S 342 45 M 605 *See* 44 M 913 40 M 728

8 Where a person went to a Police Station to lodge a complaint and the Police Officer in consequence of some thing restrained him till he got an order from his superior Officer and then discharged him on his own recognizance Held he was not guilty under S 342 (1875) 24 W R 51

9 Where the accused refused to obey an order in writing improperly issued by a Police Officer and the Police Constable thereupon took her into custody He was guilty under S 342 (1886) 1 Weir 342

10 A Police Officer arresting a person on a charge of criminal breach of trust committed out of British India is guilty under S 342 19 B 72 *See* 12 B 377

11 Where a Superintendent of Police illegally wrote a letter to a person directing him to present himself before a Magistrate when he could not be arrested without a warrant and the constables prevented him from speaking to any one an offence under S 342 was committed 2 M H C 396

12 A person was discharged by a Magistrate and was re arrested on the same charge an offence under S 342 was committed (1873) 19 W R 27 Cr

13 A village Magistrate maliciously ordering a certain person who had resisted the detention of pigs found trespassing to be arrested is guilty under S 342 5 M H C App 24

14 If a Police Officer directs another person to make an arrest he is responsible in the same way as if he had made the arrest (1867) 7 W R 3 Cr

15 Accused, a Police Constable detained some persons as suspects for several days

Wrongful Confinement—(contd.)

They were not fettered and their meals were brought to them from home. Held, he was guilty under S. 342. 4 Bom. L. R. 79.

3. Arrest by Abkari Inspector.

An Abkari Inspector detained a man all night to prevent his being tampered with, he was guilty under S. 342, I. P. C. 13 B. 376.

4 Arrest by Bailiff of judgment debtor.

1. Where the accused got the complainant who was his debtor arrested and taken to Jail by bailiff during the subsistence of protection order in his favour, he was guilty under Ss. 342—114, I. P. C. 1924 M. 31=76 I. C. 234=25 Cr. L. J. 138.

2. *A decree holder is guilty if he causes the arrest of judgment-debtor while returning* from Court under circumstances mentioned under S. 135, I. P. C, and the officer who arrests or makes over the warrant for arrest to his subordinate for compliance is also guilty. The fact that judgment debtor on his way stopped for some private work does not deprive him of the privilege afforded by law. 121 P. L. R. 1916= *17 Cr. L. J. 525=36 I. C. 493.*

3. Arrest on Sunday is legal 4 M. H. C. R. App. 62.

4. A peon arrested the judgment-debtor in the discharge of his duties under a valid warrant. The judgment-debtor protested that he was exempt from arrest under S 195 (2), C. P C., but the peon took him to Munsif who after finishing a suit released him Held, he was not guilty under S. 342 nor was the decree holder guilty of abetment 1935 C. 551=36 Cr. L. J. 1252=157 I. C. 1004. 30 M. 129 and 1930 R. 131 Rel. on.

5 Arrest by private person.

Where a person acting under a *bona fide* belief that another person had abducted a minor girl arrested him and kept him in his own custody instead of taking him to Police Station, he was held guilty under S. 342. 8 P. L. T. 204.

6. Essentials and Evidence.

1. A person living in a town where medical assistance was available, kept in heavy chains his brother who was subject to fits of insanity, he was guilty under S 342 when he was found to be sane by the District Judge. 45 A. 495.

2 Detention through moral force without accompaniment of physical force is sufficient to constitute an offence under S. 342. (1881) 1 Weir 341.

3. Malice is no ingredient of an offence under S 342. 13 B 376

4. There can be no wrongful confinement when a desire to proceed has never existed or if it was consented to by the person affected. 36 P. R. 1894 Cr.

5. But mere submission to arrest does not detract from the accused's act or diminish its legal effect. 30 C. W. N. 751.

6 It is no wrongful confinement if an escape is open to a person, if he wishes to avail of it. 4 C. W. N. 105.

7 The retaining of a person against his will in a particular place or compelling him to go in a particular direction by an exterior will overpowering or suppressing his voluntary action amounts to an offence. 2 M. H. C. 396.

8 A Jail doctor confining a prisoner in a cell for the purpose of giving enema against his will is guilty under *S. 342. 30 C. 95.*

9. Mens Rea does not enter into the offence under S 342. 33 C W. N. 751=1929 C. 730.

10. When a person takes a woman in broad day light and confines her wrongfully he *commits an offence under S. 342 and not under S 365.* 109 I C. 677, 1925 L. 614.

11. Wrongful confinement by Police Officer falls under S. 342 128 I. C 208=32 Cr. L. J. 110=1930 C 711.

12. When there is nothing to show that whereabouts of the person confined were concealed by accused from other relations or from the person interested in the

Wrongful Confinement—(*concld.*)

person confined, the accused was guilty under S. 342 and not S 365, I. P. C. 1925 L. 614=92 I. C. 213.

13. Accused No. 1 brought his mistress from Kolhapore and kept her with accused No. 2 a brothel keeper in Bombay. The woman was made to live as a prostitute in the house the entrance to which was guarded and a watch was kept over her movements Occasionally she was allowed to go out under surveillance. Held, both accused were guilty under S. 342. 42 B. 181.

7. For more than 10 days S. 344, I. P. C.

Fine alone is not a legal sentence for a prisoner convicted under this section. 1 B. H. C. 39 Cr

8 In secret. S. 346, I. P C.

A woman came to Court to lodge a complaint against her relations Accused accosted her and drove her away to various places in a carriage but on stir being created brought her back to Court Held, he was not guilty under S. 346, I P. C. 9 C. 221.

9 Procedure.

1. Accused seized, dragged and pushed a person in a place to punish him Held, that they could not be convicted both under Ss 352 and 342, I. P. C. 4 C L. J. 90.

2. When the principal offender is acquitted under S 368, I. P. C., the other accused who were charged under Ss. 368—109 cannot be convicted under S 342. 1929 C. 767.

3. Where wrongful confinement was the common object of an unlawful assembly, separate sentences under Ss. 147—342 were illegal. 1 Cr L. J. 365.

10. To extort confession. S. 348, I. P. C.

1. The appellants charged the prosecutor for theft and he was handed over to Police It was held that the Police and not the appellants were responsible for any oppression or extortion practised by the Police on the prosecutor while in confinement. (1864) 1 W. R. 26 Cr.

2. Where the detention by the Police is serious, protracted and unauthorized and the complainant is prevented from proceeding beyond a certain limit, it is wrongful confinement. 1930 M W. N 723

11. To extort property S 347, I. P. C.

1. Where it was alleged that the Police Officer illegally detained a person with the object of extorting money but the Court found that no money passed Held, that the elements of offence under S 347 were wanting 7 O W. N. 957

2. A Head Constable agreed to drop proceedings against K, who had been arrested on a certain charge on condition that K paid him a sum of money The Head Constable sent away K in charge of *chawkidars* who confined him in various places and mal-treated him Held, that Head Constable was not guilty of abetting the offence under S 347, I P. C, in the absence of proof that he gave definite orders to that end. 31 C. 710

3 If accused intentionally puts a person in fear of injury and thereby induces him to place his thumb impression on a blank paper, such a paper is valuable security and conviction under S 347 is legal 1932 P. 335.

4. Separate sentences under Ss. 147—347 are legal, although the aggregate sentence cannot exceed that for the graver offence. 1932 P 335.

5 If a person is detained by Police on insufficient grounds and money is extorted by Sub Inspector in order to release him, the person paying the money is not an accomplice. 27 C. 95.

WRONGFUL LOSS OR GAIN. S 23, I. P. C *See* Dishonestly.

1. Forcible entry.

A landlord who is entitled to take possession in a case where his tenant is wrongfully holding over, can only take possession peaceably. If his possession is opposed, however wrongfully, he has no right to break the doors and to turn the inmates out but must go to Civil Court. 1926 B. 91=94 I C. 709=27 Cr. L J. 661.

Wrongful Loss or Gain—(concld)

2 General

1 When the owner is kept out of property temporarily, there is wrongful loss 25 C 416

2 *Plaintiff in a suit snatched up a document lying beside the arbitrator and ran away* and refused to produce it Held there was no wrongful loss or wrongful gain 3 M 261

3 Accused purchased rice from a famine Relief Officer to sell it at a specified rate but sold it at higher price Held, there was no wrongful gain or loss (1874) 22 W R 82 Cr

4 Wrongful gain or loss covers temporary gain or loss 68 I C 157

5 Accused who was charged with theft of a box by his master stated that he removed and concealed it in the cow shed to give a lesson to the master Held there was no wrongful gain and no theft was committed 25 C 416

6 Mere permitting cattle to stray does not establish any intention of causing wrongful loss to the public or any person (1868) Unrep Cr C 11

7. Where a pledgee used a turban pledged to him the deterioration of turban is no wrongful loss 3 M H C App 9 (1868)

8 A person capturing or killing a bull set at large by a Hindu in accordance with religious usage cannot be said to cause 'wrongful loss of any property to any one 8 A 51, 9 A 348 17 C 852

3 Illegal seizure of cattle

1 *Forcible and illegal seizure of cattle of a widow in satisfaction of debt due* to the accused by her deceased husband was a wrongful loss (1866) 5 W R 68 Cr

2 Illegal seizure and impounding of cattle even though maliciously does not cause wrongful loss (1875) 24 W R 7 Cr

4 Property

Fees payable to college for attending lectures are property within the meaning of S 23 15 A 210 (216)

5 Removing lateral support

It is not unlawful and therefore not an offence to remove the lateral support and cause damage unless the right to support has been acquired by prescription for 20 years 68 I C 831

6 *Using pledged turban*

Where a pledgee used pledged turban the deterioration of turban is no wrongful loss 3 M H C (App) 6 (1868)

WRONG NAME *See* False personation in Court

1 At an election S 171 D *See* Election

2 To Police S 182 *See* False information—15

1. The conduct of accused such as giving wrong name is only a ground of suspicion but is insufficient to support conviction 46 I C 709

2 A driver of a motor car when asked for his name by Superintendent of Police when driving without license, gave a wrong name and another was summoned He was guilty under S 182 I P C 7 P 715=1929 P 4=30 Cr L J 177=133 I C 587

3 Where a *person gives wrong name to Police and then corrects it he cannot* be liable under S 109, Cr P C 21 A L J 847=1924 A 202=81 I C 598

4 A person who gives false name and incites people to commit crime or demands money for the means of committing crime is liable under S 109 Cr P C 15 Cr L J 255

5 A person giving false name is liable under S 109 Cr P C 22 Cr L J 749

WRONGFUL RESTRAINT Ss 339—341 I P C

1 Bona fide claim

1 If an act is done in good faith under a belief that it is justified by law a conviction under S 341 is bad 24 C 885, 47 C 818 41 C L J 633

Wrongful Restraint—(contd.)

2 A person who locks up a house under a *bona fide* claim is not guilty. 20 Bom. L. R. 106, (1889) Unrep. Cr. C. 451.

3. Obstructing a passage in good faith is no offence. 30 C. W. N. 192, 22 P. R. 1910 Cr.

2. ssentials and Evidence.

1. Where the complainant was taken to Police Station as suspect and passed on from one Police beat to another, offence under S. 341 was committed. (1882) 1 Weir 339.

2. Accused preventing the building of a party wall is not guilty. (1881) 1 Weir 339.

3. Accused turning the cart upside down and thereby making the things fall on the ground is not guilty under S. 341 12 C. 55.

4. Where accused prevented complainant from proceeding in a direction with carts and exacted a sum on false plea was held guilty. (1868) 10 W. R. 35.

5. A landlord prevented a tenant who was holding over from entering the room which the tenant had rented from him was guilty under S. 341. 43 B. 531, 91 I. C. 811.

6 Before convicting a person of wrongfully restraining the other from making use of a particular place or thing, the Court should determine if the other person has a right to use it. 127 I. C. 554=1930 C 760=31 Cr. L J 1226

7. Accused wrongfully restrained his tenant from using his urinal Held, that conviction could not stand unless it was proved that complainant had right to use it. 34 C. W. N. 582=1930 C. 760

8. Any private individual can restrain a person who is drunk and disorderly and from whom breach of peace is apprehended. 44 M. 913.

9. If a horse on which a person is riding is prevented from proceeding in a direction, offence under S. 341 is complete. It is no defence that the rider might have got off the horse and walked home. 1927 M 536=100 I C 544=28 Cr L J 3_0.

10 If a person prevents a person from leaving a place when he desires to do so, he is guilty under S. 341. 21 M L. J 439, 106 I. C. 111

11. Physical presence of the person obstructed at the moment of obstruction is not necessary. 1927 B. 369=106 I. C. 111=28 Cr. L J 1023, 34 M 547.

12. Accused put up a tin projection over the complainant s wall so as to hang over his paved courtyard at a height of six feet ten inches above the ground and the projection did not prevent any one moving below it Held, no offence was committed. 106 I. C. 111=1927 B 369=28 Cr. L J. 1023

13. The accused who were co-owners of well, obstructed another co owner from using the *mot* to which he had yoked his bullock on the slope of a well on the ground that he had not paid the share of expenses on the well Held, they were guilty of wrongful restraint. 91 I C 811=1926 B 118=27 Cr L J. 139

14. It is not an offence to erect a wall against one s premises to prevent other persons from passing over it. 25 P R 1886

15. The obstruction must be physical A verbal prohibition or remonstrance is not obstruction. (1882) 1 Weir 339.

16. Mere direction or demonstraction will not constitute wrongful restraint [illegible] J. 212.

17. The complainant, his wife and daughter occupied a house and in the [illegible] accused put a lock on the outer door and prevented them from entering [illegible] it was held that accused was guilty of wrongful restraint 34 M 547, 10[illegible] 111

18. Accused took away the licenses from the boatmen with the result that [illegible] permitted by the authorities to ply their boats beyond a certain stage [illegible] nel, it was held that it was no wrongful restraint 11 Cr. L J 19[illegible]

19. Mere ploughing up of a mamal path is not an obstruction 30 I C [illegible]

20 Where one of two co-owners leased a shop without the consent of the [illegible] up a lock Held, that he was not guilty under S. 341 20 Bom L [illegible] C. 463.

Wrongful Restraint—(concld.)

21. A conviction under S. 341 is bad if there is no physical restraint of complainant's person. 19 Cr. L. J. 445=44 I. C. 973.

22. Voluntary obstruction of any person entering upon the land under a *bona fide* colour of title is no offence under S. 341. 34 P. L. R. 1914.

23. Restraint must be directed to a person and not to a thing. 16 Cr. L. J. 176, 19 I C. 177, 12 C. 55, 1935 C. 252=39 C. W. N. 143.

3. Landlord.

1. A landlord prevented a tenant who was holding over from entering a house he had rented from him. Held, he was guilty under S. 341 43 B 531, 98 I. C 811.

2. Accused wrongfully restrained his tenant from using his urinal. Held, that conviction could not stand unless it was proved that the tenant had right to use it. 34 C. W. N. 582=1930 C. 760=127 I. C. 554=31 Cr. L J. 1226

4. Procedure.

1. The offence of wrongful restraint is compoundable by the person restrained and it is not necessary that composition should be arrived at after the complaint is filed in Court. 49 A. 484=1927 A. 375=101 I. C. 671=28 Cr. L. J. 495, 41 M. 685.

2. A Magistrate cannot order the removal of obstruction on conviction. 31 C. 691.

5. Public Street.

1. One section of community cannot interdict another section from lawful use of public street. 50 M. 673, 30 M. 185, 1925 P. C. 36, 1926 M 830.

2. A Brahmin stopped a convert to Arya Smaj in a street and took him to task for passing along that street. He was guilty. 52 M. L. J. 602.

3. It is necessary that customary right of villagers in respect of a path should be established. The oral testimony of two or three persons that path had been used by villagers for more than 20 years is not sufficient. 33 C. W. N. 915=1930 C. 286 =125 I C. 600=31 Cr. L. J 859.

4 Accused caused a pariah to stand in a public street in the vicinity of a temple with the object of preventing the complainant fom conducting a religious procession for fear of pollution, he was not guilty. 7 M L T. 366.

5. Accused placed an obstruction on a road over which complainant had right of passage of men and cattle but leaving a portion which was passable. Held, he was not guilty. (1899) 1 Weir 340.

6. The voluntary obstruction of a vehicle to compel payment of certain dues is not wrongful restraint. 1935 C. 252=39 C. W. N. 143, 12 C. 55, 19 I. C. 177=14 Cr. L. J. 177.

6. Removing ladder from a wall.

Accused removed a ladder and thereby detained a person on the roof of a house, held, he was guilty of wrongful restraint (1884) 1 Weir 340

Y

YOUTHFUL OFFENDER *See* First Offender, Juvenile Offender.

A boy of 15 should not be kept in ordinary jail. 1934 A. 132.

Z

ZAILDAR

1. **Confession to—.** *See* Confession by inducement—10.
2. **Evidence of—.** *See* Witness—108.

ZEMINDAR *See* Landlord, Tenant.

1. **Confession to—.** *See* Confession by inducement—10.
2. **Evidence of—.** *See* Witness—65.

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